

No. 12383

United States
Court of Appeals
for the Ninth Circuit.

IVA IKUKO TOGURI D'AQUINO,
Appellant,

vs.

UNITED STATES OF AMERICA,
Appellee.

Transcript of Record
In Two Volumes
Volume II
(Pages 463 to 871)

Appeal from the United States District Court,
Northern District of California,
Southern Division.

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Appeal from the United States District Court,
Northern District of California,
Southern Division.

In the Southern Division of the United States
District Court for the Northern District of
California

No. 31712 R

UNITED STATES OF AMERICA,

Plaintiff,

vs.

IVA IKUKO TOGURI D'AQUINO,

Defendant.

DEPOSITION OF NICOLAAS SCHENK

Deposition of Nicolaas Schenk, taken before me, Thomas W. Ainsworth, Vice Consul of the United States of America, in Mitsui Main Bank Building, Room 335, in Tokyo, Japan, under the authority of a certain stipulation for taking oral designations abroad, and upon order of the United States District Court, made and entered March 22, 1949, in the Matter of the United States of America vs. Iva Ikuko Toguri D'Aquino, pending in the Southern Division of the United States District Court, for the Northern District of California, and at issue between the United States of America vs. Iva Ikuko Toguri D'Aquino.

The plaintiff, appearing by Frank J. Hennessy, United States District Attorney; Thomas DeWolfe, Special Assistant to the Attorney General, and Noel Story, Special Assistant to the Attorney General,

and the defendant, appearing by Wayne N. Collins and Theodore Tamba.

The said interrogations and answers to the witness thereto were taken stenographically by Mildred Matz and were then transcribed by her under my direction, and the said transcription being thereafter read over correctly to the said witness by me and then signed by said witness in my presence.

It is stipulated that all objections of each of the parties hereto, including the objections to the form of the questions propounded to the witness and to the relevancy, materiality and competency thereof, and the defendant's objections to the use of the deposition, or any part of the deposition, by plaintiff, on the plaintiff's case in chief, shall be reserved to the time of trial in this cause.

NICOLAAS SCHENK

of Tokyo, Japan, assigned to the Netherlands Mission in Japan, of lawful age, being by me duly sworn, deposes and says:

Direct Examination

By Mr. Tamba:

Q. Lt. Schenk, what is your full name?

A. Nicolaas Schenk, Sub-Lieutenant.

Q. And you are presently connected with the Netherlands Legation?

A. I am working as custodial officer of the Netherlands Mission in Japan, Tokyo.

Q. You are a citizen and national of the Netherlands?

A. Of the Netherlands, yes, sir.

(Deposition of Nicolaas Schenk.)

Q. And you were a prisoner of war at Camp Bunka? A. Yes, sir.

Q. When and where were you captured by the Japanese forces?

A. I was captured the 6th of May, 1942, in Pale-dang Soetji, Java.

Q. After your capture where were you taken?

A. To a prison in Garoet, and upon release from prison, interned in a prisoner of war camp.

Q. Where was that prisoner of war camp?

A. Also in Garoet, the same place.

Q. When you were first apprehended were you interviewed by the Kempei-tai?

Mr. DeWolfe: Objected to as incompetent, irrelevant and immaterial, too remote, not competent; it doesn't have to do with Radio Tokyo, this man was not on Radio Tokyo on the Zero Hour program.

The Court: Submitted?

Mr. Collins: Yes.

The Court: The objection will be sustained.

(A. Yes, sir.)

Q. Tell us generally what that interview consisted of.

Mr. DeWolfe: Objected to as incompetent, irrelevant and immaterial.

The Court: The objection will be sustained.

(A. Mainly, torture.)

Q. Can you describe the torture?

Mr. DeWolfe: Objected to as immaterial and incompetent.

(Deposition of Nicolaas Schenk.)

The Court: The objection will be sustained.

(A. Standing out in the sunshine for a couple of hours with arms stretched sideways, standing at attention all the time.)

Q. How about food and water?

Mr. DeWolfe: Objected to as irrelevant.

The Court: The objection will be sustained.

(A. None.)

Q. When you went to this prisoner of war camp, how long did you remain there?

A. I remained there until July of the same year, 1942. I was then transferred to a camp in Tjimahi.

Q. How long did you remain at that camp?

A. Until September of the same year. Afterwards I was transferred to Batavia.

Q. How long did you remain in that camp? In the camp in Batavia?

A. Until December of the same year.

Q. And eventually you were brought to Japan?

A. Brought to Japan in June, 1943.

Q. And when you were brought to Japan where were you taken?

A. To the mine workers camp, Orio, Kyushu. Coal mine.

Q. You worked in the coal mines? A. Yes.

Q. How long did you remain there?

A. Until I was brought to Tokyo in September, 1943.

Q. And where were you taken in Tokyo?

A. First to Camp Omori and in October, be-

(Deposition of Nicolaas Schenk.)

ginning of October, I believe, it was the same year, I was brought to Bunka Camp, Kanda.

Q. Were you told why you were brought to Bunka Camp? A. No, sir.

Q. And was Bunka camp known by any other name than Bunka camp?

A. The name Bunka became known to us after we were in the camp but before that we did not know the name.

Q. And I assume you were there with a number of other prisoners of war?

A. We came up to Tokyo with a whole bunch of people, and from about fifty to sixty people who were kept secluded from the other prisoners, there were selected about a dozen who were told to pack their belongings and were put on a truck and brought to the camp which we later learned to be Bunka Camp.

Q. Were you given any orders, at Bunka Camp, to broadcast?

Mr. DeWolfe: Objected to as immaterial, nothing to do with the Zero Hour program, too remote.

Mr. Collins: That remains to be seen, if Your Honor please.

The Court: Submitted?

Mr. Collins: That is the time they were brought here, apparently in December of 1943. Yes.

Mr. DeWolfe: Object to it likewise as hearsay.

The Court: Submitted?

Mr. Collins: Yes.

(Deposition of Nicolaas Schenk.)

The Court: The objection will be sustained. [2*]

(A. The first speech we got did not actually say what the work would be. However, it was pointed out that the Japanese expected us to cooperate with them to secure peace, and those who did not want to cooperate would be executed.

Q. Who made that speech?

Mr. DeWolfe: Objected to as hearsay, incompetent, irrelevant and immaterial.

Mr. Collins: I might point out, if your Honor please, that this is the speech of Major Tsuneishi, this is direct impeachment of the testimony of Major Tsuneishi, and the preceding question goes direct to the very same thing.

The Court: The objection will be sustained.

(A. That was made, I believe, by Major Tsuneishi.)

Q. Was that speech translated into English?

Mr. DeWolfe: Objected to as hearsay, irrelevant, not germane to the case, incompetent, not related to the Zero Hour.

The Court: The objection will be sustained.

Mr. Collins: It goes to the question of duress, if your Honor please, which was directly communicated to the defendant by the testimony of the witness Cousens.

The Court: The court has ruled.

(A. It was translated into the English language by either Uno or Ikeda.)

* Page numbering appearing at top of page of original Reporter's Transcript.

(Deposition of Nicolaas Schenk.)

Q. Was Tsuneishi wearing his uniform?

Mr. DeWolfe: Objected to as not *germaine*, *hearsay*, *incompetent*.

The Court: The objection will be sustained.

(A. I have never seen Major Tsuneishi in other dress than uniform.)

Q. Did he have any other things with his habit besides the uniform?

Mr. DeWolfe: Objected to as *incompetent*, *irrelevant* and *immaterial*.

The Court: The objection will be sustained.

(A. You are referring to a sword?) [3]

Q. I am referring to a sword.

Mr. DeWolfe: I object to that as *irrelevant*, *immaterial*, *incompetent*.

The Court: Objection sustained.

(A. He always wore a sword.)

Q. Did you ever see Tsuneishi without a sword?

Mr. DeWolfe: Object to that as *incompetent*, *irrelevant* and *immaterial*.

The Court: Objection sustained.

(A. No, sir.)

Q. Did he wear any insignia of a staff officer?

Mr. DeWolfe: Objected to as *irrelevant*.

The Court: The objection will be sustained.

(A. He wore on the left shoulder the gold wire gadget which was designed for the general staff.)

Q. When this speech was made, what happened?

Mr. DeWolfe: Objected to as *incompetent*.

The Court: The objection will be sustained.

(Deposition of Nicolaas Schenk.)

(A. A British citizen by the name of Williams stepped forward and told, in so many words, that he was not capable of giving any cooperation whatsoever.)

Q. What happened to Williams?

Mr. DeWolfe: Objected to as incompetent.

The Court: What happened to who?

Mr. DeWolfe: And hearsay.

The Court: Read that question again.

Q. What happened to Williams?

The Court: Williams?

Mr. Collins: Yes.

Mr. DeWolfe: He is another prisoner of war.

Mr. Collins: Well, may I state this, if Your Honor please, to refresh the recollection of the court. In connection with this very question, the testimony of Major Tsuneishi related directly to this very occurrence.

The Court: What occurrences? [4]

Mr. Collins: The occurrences at Camp Bunka on the occasion of his speeches to the prisoners of war there assembled to his two distinct speeches, as to what Major Tsuneishi said. And what he did not say.

The Court: I am satisfied we are going afield if we indulge in that line of examination. I always try, and always have tried, to be very liberal in relation to the admissibility of any evidence; I have allowed the widest scope. Now I am prepared to

(Deposition of Nicolaas Schenk.)

rule on this question, and I will sustain the objection.

(A. He was immediately brought away.)

Q. Were you ever told what happened to Williams at that time?

Mr. DeWolfe: Objected to as hearsay, incompetent, irrelevant.

The Court: Objection sustained.

(A. We were not told, but upon questioning by us we were given to believe that Williams was executed.)

Q. Now, was any speech made after that by Major Tsuneishi, in the dining room?

Mr. DeWolfe: Object to that as incompetent, irrelevant, and immaterial.

The Court: Yes, the objection will be sustained again.

Mr. Collins: I call your Honor's attention to the impeachment of the testimony of Major Tsuneishi, given on that stand.

The Court: For that limited purpose I will allow it. With the hope that we will go along here and finally get through.

A. We had a speech almost every day in the period of about two, three months, and all the speeches were, to my opinion, intended to break us down mentally and to force us to believe that there was no way out and that it was the pure intention of the Japanese to use us as a vehicle for their own means and if we were not willing to do what they

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wanted us to do, well, then there was a way out—to execute us. One line I particularly remember is that “nothing is guaranteed.” It was used almost daily by Ikeda and Buddy Uno. [5]

Mr. DeWolfe: Move to strike that answer, your Honor, as not responsive to the question. The question was, “Was any speech made”? And then he goes into his opinion.

The Court: I will allow the question and answer to stand.

Q. Do you recall a speech made by Tsuneishi, which was translated by Uno or Ikeda in the dining room, which I referred to as the second speech, that there were no guards to be posted around the camp?

A. Yes, sir, I do.

Mr. DeWolfe: Objected to as immaterial, incompetent, irrelevant, and too remote to the issues involved. It relates to Camp Bunka. It does not relate to the Zero Hour program. It is going into a collateral matter, not involving an issue in the trial of this case.

Mr. Collins: It goes directly to the circumstances under which the prisoners of war were held at Bunka, and the facts of the duress were communicated to the defendant, and the witnesses at this trial have so testified.

The Court: The objection will be sustained.

(A. Yes, sir, I do. It was during the evening meal. We had on the second floor of the location where we were billeted, what we called the dining

(Deposition of Nicolaas Schenk.)

room. By that time Tsuneishi held a speech and it was translated to us by Uno, in which he urged each that, as we could see, there were no fence around except a wall which could be easily climbed over, but he wanted us to know that this was particularly to see how it worked upon us because he wanted us to realize that we were white men and the surroundings were Japanese and he could swear that anybody of us coming across the fence would be brought back in pieces.)

Q. What were your official duties at the camp when you first got there?

A. I was put in charge of the food supplies, and its preparing, and as an assistant I got an Australian boy by the name of Parkyns.

Q. In other words, you were the cook?

A. Yes, the cook. [6]

Q. How was the food you got there? Was it adequate?

Mr. DeWolfe: I object to that as incompetent, irrelevant and immaterial; a collateral matter. It does not involve the Zero Hour at Radio Tokyo. This man was not on that program.

Mr. Collins: It relates to the conditions of duress under which the defendant was held. Those facts were communicated to the defendant.

Mr. DeWolfe: These facts were not, according to the testimony of this witness, communicated to the defendant. There is no showing to that effect.

Mr. Collins: There is a showing to that effect by

(Deposition of Nicolaas Schenk.)

the witness who testified they were retained there and they were starved.

The Court: The objection will be sustained.

(A. Absolutely inadequate.)

Q. Please tell us in what particular?

Mr. DeWolfe: I object to that as too remote, incompetent, irrelevant, nothing to do with the Zero Hour.

The Court: The objection will be sustained.

(A. We got a ration of three teacups of kaoliang per day and three bowls of soup to get that down with. The bowls of soup were a little bit larger than the teacups. The soup merely consisted of daikon, which is horse-radish, a little salt, a little soya, to which water was added.)

Q. What does this kaoliang consist of?

Mr. DeWolfe: That is a food, I presume, Your Honor. I object to it as incompetent, irrelevant and immaterial.

The Court: The same ruling. Objection sustained.

(A. The kaoliang is a kind of a corn which the encyclopedia describes as a vehicle to fill the bellies of chicken, and its effect is severe beri-beri and palagra.) [7]

Q. Did any of the civilian employees and officers of the Japanese army of Kempei-tai take part of your rations?

Mr. DeWolfe: Objected to as immaterial, not relevant to the issues involved.

(Deposition of Nicolaas Schenk.)

The Court: The objection may be overruled. He may answer.

A. That happened daily from the start.

Q. What did they do?

Mr. DeWolfe: I object to that as not being material to the issues involved concerning the defendant's participation in the Zero Hour program, what the Jap officers did with the prisoners of war in camp with respect to their prisoner of war rations, sir.

The Court: Submitted?

Mr. Collins: Yes.

The Court: Objection sustained.

(A. I was issued by the supply man, Ishikawa, a certain amount of rice for so many prisoners of war and by the time it was prepared I was told to separate so much for the school boys who were working there, a civilian who was supposed to be guarding us, and who spoke a little bit of English, that was three, and later that number was increased to five.)

Q. In other words, they would take their rations, and——

Mr. DeWolfe: I object to that as leading and collateral, immaterial, incompetent, nothing to do with the defendant's participation in the Zero Hour; too remote.

The Court: The objection will be sustained.

(A. And leave what was left.)

(Deposition of Nicolaas Schenk.)

Q. Did any of the prisoners of war show evidence of malnutrition?

Mr. DeWolfe: Object to that as having nothing to do with the issues here involved; incompetent and irrelevant.

The Court: The objection will be sustained.

Q. Will you describe some of these effects?

Mr. DeWolfe: I object to that as incompetent, irrelevant and immaterial.

The Court: The objection is sustained.

(A. Kalbfleisch broke out into boils in a very short time. McNaughton got the same trouble. Major Cox laid down for about [8] three months, not being able to move; Larry Quilly lost in about six months about forty pounds; I, myself, suffered a diminishing of eyesight, and later my legs, what you call the adequate name they got for it, my legs did not come in use.)

Q. In other words, your legs would not function?

Mr. DeWolfe: I object to that as immaterial and incompetent.

The Court: Objection sustained.

(A. Yes.)

Q. Was beri beri prevalent in the camp?

Mr. DeWolfe: I object to that as incompetent, irrelevant and immaterial.

The Court: Objection sustained.

Mr. Collins: May I point out that these matters were communicated to the defendant?

(Deposition of Nicolaas Schenk.)

The Court: Who is testifying?

Mr. Collins: This is Nicolaas Schenk, prisoner of war, who was detained there.

The Court: The Court has ruled. There is no connection between this witness testifying now and the issues involved in this case, which concern acts alleged to have occurred at this radio broadcasting station.

(A. All of us had it.)

Q. Do you recall any prisoner of war suffering from temporary blindness?

Mr. DeWolfe: Objected to as too remote, immaterial and incompetent, nothing to do with the issues here involved.

The Court: Objection is sustained.

(A. Capt. Kalbfleisch was complaining of it, and, I believe, Mark Streiter.)

Q. Do you recall any of the prisoners of war losing their hair because of deficiency of vitamins in their diet?

Mr. DeWolfe: Objected to as calling for conclusion; incompetent and immaterial.

The Court: Objection sustained.

(A. I believe it was Larry Quilly.) [9]

Q. Would you tell us what you did, or other prisoners of war did, in order to secure food around the camp?

Mr. DeWolfe: Objected to as immaterial and incompetent.

The Court: Objection sustained.

(A. Sometimes Major Cousens, Capt. Ince,

(Deposition of Nicolaas Schenk.)

brought some foodstuffs he got from the boys and girls at Radio Tokyo; we had, further, an old lady and a husband living in the basement of our quarters, who were sent out once in a while to get us some food items and the rest was stolen and we grazed the trees.)

Q. What do you mean by grazed the trees?

Mr. DeWolfe: Objected to as immaterial and incompetent.

The Court: Objection sustained.

(A. We collected the young leaves from the trees. We had several trees around the place and we used to take the young leaves because it was proven in Singapore that they were quite edible.)

Q. How about dogs and cats?

Mr. DeWolfe: Objected to as incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. We had quite a few when we came and when we left there were none.)

Q. How many did you consume?

Mr. DeWolfe: Objected to as incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. I personally killed two cats.)

Q. What other prisoners of war?

Mr. DeWolfe: Objected to as incompetent, irrelevant and immaterial.

The Court: Objection sustained.

Q. Did you consume any dogs?

(Deposition of Nicolaas Schenk.)

Mr. DeWolfe: Objected to as immaterial and incompetent.

The Court: Objection sustained.

(A. Yes, sir.)

Q. How many, do you recall?

Mr. DeWolfe: Objected to as immaterial and incompetent and irrelevant. [10]

The Court: Objection sustained.

(A. At least two.)

Q. Incidentally, was Kalbfleisch taken away from the camp?

Mr. DeWolfe: Objected to as hearsay; incompetent, irrelevant and immaterial. Kalbfleisch is here as a defense witness. I do not know whether his testimony is going to become competent on that point. It is better to wait and see.

Mr. Collins: This is testimony of the circumstances under which Kalbfleisch was taken away. The fact was communicated to the defendant. Kalbfleisch was taken away to be executed.

Mr. DeWolfe: There is no such showing.

The Court: The objection is sustained.

(A. Kalbfleisch was taken away, I believe, in the middle or the beginning of 1944, I am not sure. He was taken away very suddenly. We were called together in the room by Uno and somebody from the Japanese headquarters of the general staff read to us in Japanese, which was partially translated by Uno, and Kalbfleisch was led away, brought upstairs to the officers' room, to pack a few things,

(Deposition of Nicolaas Schenk.)

and was not even able to say goodbye to any of the boys, and taken out of the camp.)

Q. Were you led to believe that Kalbfleisch was executed?

Mr. DeWolfe: Objected to as calling for a conclusion; incompetent, irrelevant and immaterial, what he was led to believe.

The Court: What he was led to believe will go out; let the jury disregard it. The objection is sustained.

(A. Yes, sir.)

Q. And how did you come to that conclusion?

Mr. DeWolfe: I object to that as calling for a conclusion.

Mr. Collins: This relates now to what they were told by the officers at Bunka.

The Court: Objection sustained.

(A. Uno told us during a discussion on commentaries. I believe it was to Shattles, who refused to take a part in a script from Mark Streiter, that in case he refused to obey orders he would go the same way as Kalbfleisch. They were intending to say that Kalbfleisch was executed.) [11]

Q. Let me ask you, Lt. Schenk, did any of the prisoners of war voluntarily broadcast over the Japanese radio?

Mr. DeWolfe: I object to that as calling for a conclusion of law.

The Court: Objection sustained.

(A. Not to my opinion, sir.)

(Deposition of Nicolaas Schenk.)

Q. Were any of the prisoners of war around the camp slapped by Japanese army officers or civilians.

Mr. DeWolfe: I object to that as incompetent, irrelevant and immaterial; not connected with the defendant or the issues here involved.

The Court: Objection sustained.

(A. Quite repeatedly.)

Q. Who, sir?

Mr. DeWolfe: I object to that as incompetent and immaterial.

The Court: Objection sustained.

Mr. Collins: May I point out, if your Honor please, that that very question goes to the question of whether or not a member of the Zero Hour program himself was beaten.

The Court: Read the question again.

Mr. Collins: The question was, "Who, sir?" The preceding question to which there was an answer was: "Were any of the prisoners of war around the camp slapped by Japanese army officers or civilians?"

The Court: I sustained the objection.

(A. Leaving myself out, I know and I have seen that Larry Quilly has been beaten quite repeatedly; that Capt. Ince was beaten quite severely; that Henshaw has been beaten; Parkyns, Shattles and myself.)

Q. Who beat the prisoners of war?

Mr. DeWolfe: I object to that as immaterial and incompetent and irrelevant.

(Deposition of Nicolaas Schenk.)

The Court: Objection sustained.

(A. Lt. Hamamoto; a sergeant from the Kempei tai, I do not recall his name though; and Mr. Uno, and two or three other Japanese whom I am not able to recall by name. Shishikara was another name, and Endo.)

Q. Did Ikeda beat the prisoners?

Mr. DeWolfe: Objected to as incompetent, irrelevant and immaterial.

The Court: Same ruling.

(A. Ikeda never did.)

Q. Who was Ikeda's brother-in-law?

A. He brought the brother-in-law in who was presented to us as a director of music.

Q. Was he at the camp?

A. He was—he did not give to me the impression as being regularly connected with the camp, but he came a few times.

Q. Was Hamamoto under Tsuneishi?

A. Yes, sir.

Q. And Ikeda? A. I think so.

Q. And Uno? A. Same.

Q. And the sergeant you mentioned?

A. Yes, sir.

Q. Was the Kempei tai stationed at the camp continually?

Mr. DeWolfe: I object to that as immaterial and incompetent; not connected with the issues in the case.

(A. Yes, sir.)

Q. Did they keep a room at the camp?

(Deposition of Nicolaas Schenk.)

Mr. DeWolfe: Same objection.

The Court: Same ruling. The objection is sustained.

(A. They kept a room. Lt. Hamamoto kept a room directly across the prisoner of war location; the sergeant occupied a room on top of the main building, looking quite directly into the rooms of the enlisted men and officers, while some other fellows had their room on the right side of the camp so that we really were rather good guarded.) [13]

Q. Will you tell us about the occasion when Capt. Ince was slapped.

Mr. DeWolfe: I object to that as being incompetent, irrelevant and immaterial.

The Court: When?

Mr. Collins: This is in December, 1943, if your Honor please, while they were on the Zero Hour program.

The Court: That question does not indicate the time.

Mr. Collins: The foundation is laid for the very time by the testimony of other witnesses.

The Court: The objection will be sustained.

(A. Captain Ince. I saw him beaten once during a morning exercises. Ince was quite a while sick, suffering from neuralgia and beri-beri, and was a weak fellow. In fact he weighed at that time about one hundred and thirty pounds, at the most, and he was about a head taller than I am, so it was not much. We were standing in the courtyard and Ince

(Deposition of Nicolaas Schenk.)

was called out that he had to go out and do exercise, by the sergeant of the Kempei tai. So Ince came out in line and were were told to do an exercise by which the head had to bend low, and doing that on an empty belly, it made Ince, as well as others, dizzy, so Ince was trying to get up again, and was a little too groggy, and at that moment we heard a loud scream and Lt. Hamamoto came out from his room, running into the courtyard directly up to Ince and with all his might he placed an uppercut on Ince's chin and Ince was knocked out and lay unconscious for a few minutes. From personal experience I would like to add to this that I know that the swing from Lt. Hamamoto was pretty severe because he knocked me out, myself, when I complained about food, and it took me four days to recover from that.)

Q. When the prisoners of war were first ordered to broadcast, were they broadcasting from scripts prepared by themselves? A. No, sir. [14]

Mr. DeWolfe: What line is that?

Mr. Tamba: 22.

Mr. Collins: Page 9.

Mr. DeWolfe: I am sorry. I was looking at a criminal rule with respect to this.

The Court: We will take a recess so you can look further.

Mr. DeWolfe: I was looking at a rule on this point and I lost the place.

(Thereupon a recess was taken.)

(Deposition of Nicolaas Schenk.)

(The deposition of Nicolaas Schenk is being read.)

The Court: Proceed.

Mr. Collins: Line 25.

Q. Who prepared the scripts, if you know?

Mr. DeWolfe: I object to that as incompetent, irrelevant and immaterial, having nothing to do with the Zero Hour.

The Court: Nothing to do with the script?

Mr. DeWolfe: These are scripts of the Zero Hour program.

Mr. Collins: You are assuming something, Mr. DeWolfe.

The Court: I will allow it. The objection is overruled.

A. We were later told by Hiyoshi and Osaki that the scripts were prepared by people working at Domei, who received a pretty good payment for it.

The Court: The objection will be sustained. Let it go out and let the jury disregard it.

Q. Later were prisoners of war ordered to prepare the scripts?

Mr. DeWolfe: Objected to as incompetent, irrelevant and immaterial, not relative to the issues here involved.

The Court: I will allow him to answer.

A. Yes.

Q. Tell us about the blackboard assignments.

Mr. DeWolfe: I object to that as incompetent,

(Deposition of Nicolaas Schenk.)

irrelevant and immaterial. These are prisoner of war broadcasts. They have nothing to do with the Zero Hour.

Mr. Collins: You are assuming something there, Mr. DeWolfe.

Mr. DeWolfe: There is no testimony hooking it up with the issues involved. [15]

The Court: I have not seen those depositions at all. I do not know what is in them and I do not know what follows. Unless they are connected up, of course they will have to go out. I will sustain the objection.

(A. Uno came over to our quarters and told us that Tsuneishi had ordered that the blackboard should be put on the wall, bearing the names of all prisoners of war and showing exactly their activities in connection with the program. We were called to attention in the bedroom and Uno pointed out that each and everyone of us had to participate in the broadcast and full cooperation was expected, otherwise nothing would be guaranteed. In spite of the rather severe instructions from Uno a few of us made some comment to the effect as: "Sir, I have never broadcast," and "I am stammering," like Lance Corporal Bruce, British Forces and I, myself, pretended that I could not speak English or understand it well enough, and also a few others, whom I do not recall by name. To all this Uno said that he had nothing to do with that; we had to broadcast. The scoreboard was put in the officers'

(Deposition of Nicolaas Schenk.)

room and Uno himself marked off on that board how many commentaries were turned in; how many were approved; how many were broadcast, and other activities, and later, much later, when we got our first Red Cross packages this scoreboard was used as the determination of who would get Red Cross packages, and who would not.)

Q. When did you receive your first Red Cross package?

Mr. DeWolfe: Objected to as incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. If I remember well I got my first Red Cross package in the end of 1944.)

Q. Was that the first time Red Cross packages were seen around the camp?

Mr. DeWolfe: Same objection.

The Court: Objection sustained.

A. That was the first I had seen in my life.

Q. Was it or was it not intact?

Mr. DeWolfe: Objected to as immaterial and incompetent. [16]

The Court: Objection sustained.

(A. The first was intact.)

Q. How about the subsequent ones?

Mr. DeWolfe: Object to that as incompetent and immaterial.

The Court: Same ruling.

(A. They had chocolate missing, cigarettes missing. As I was very fond of Camel cigarettes, I was offered by one of the girls working for Tsuneishi

(Deposition of Nicolaas Schenk.)

to swap the Camels for Chesterfields because her brother liked Chesterfields better, which he smoked before the war.)

Q. Did these prisoners of war ever receive any hospital treatment when they were sick?

Mr. DeWolfe: I object to that as too general, incompetent, irrelevant and immaterial.

Mr. Collins: This relates directly to the matter of Major Cousens, if your Honor please.

The Court: The objection will be sustained.

(A. There were only two occasions, one occasion when a fellow got hospital treatment; in the case of Cousens who got a heart attack in the studio. They brought him back to the camp and upon consultation he was transferred to a hospital and when he left Uno said: "Thank God that bastard won't live long any more.")

Q. When was that, if you recall? I am referring to the time when Cousens became ill.

Mr. DeWolfe: I object to that as incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. It must have been in 1945. I would say in the middle or little before the middle of 1945.)

Q. Was that the year the war ended or before that?

Mr. DeWolfe: Same objection.

The Court: Objection sustained.

(A. It was the year the war ended.) [17]

(Deposition of Nicolaas Schenk.)

Q. Oh, incidentally, were you prisoners of war preparing scripts that had a double meaning?

Mr. DeWolfe: I object to that as incompetent, irrelevant and immaterial, not relating to the Zero Hour.

The Court: Objection sustained.

(A. As soon as we were told to write our own stuff I know that all of them, with the exception of Provoo and Streiter, each and everyone of us tried to inject as much double meanings and information in the scripts as possible.)

Q. Have you any reason to believe that the information you conveyed in the broadcast was received by the American or allied forces?

Mr. DeWolfe: Objected to as incompetent, irrelevant and immaterial, and hearsay.

The Court: Objection sustained.

Mr. Tamba: Line 24 on the next page, Mr. Collins.

Mr. Collins: I will direct your Honor's attention to the fact that the answer there relates to what Major Cousens did in connection with that matter, in connection with the question propounded.

Mr. DeWolfe: It is wholly a collateral matter. The defendant's name is not mentioned. There is a lot of hearsay in it.

The Court: The objection will be sustained.

(A. I could only tell you what I know from myself. It was after I came to Manila I was interrogated several times by officers from CIC and one

(Deposition of Nicolaas Schenk.)

of them, I do not recall his name, told me that we fellows had done a mighty good job; that it was appreciated; that they had tried to come in contact with us by broadcasting short wave to us so as to get a better contact. However that they did not have any confidence in those tryings because they suspected us not to be able to receive, and afterwards I know only of one occasion which was rather touching to. It was in August we got a big air raid and were surprised there were no bombs dropped but leaflets. We got some leaflets from one Japanese who brought it to us with a rather significant remark that these leaflets "were exact opposites from what the people back home actually intended to tell us," I mean the [18] leaflet showed a prepared rice table and on one side of the rice table was one big mistake according to Japanese custom because the chopsticks were on the right side instead of front, and there were a couple of other mistakes. I brought this leaflet to Cousens and discussed it with him and he had a little experience about the Orientals and I had a little experience, and we thought it might be a good idea that they should pay more attention to this because the Japanese were extremely conscious of the customs and we finally decided, after a long stroll in the courtyard, that I should write a commentary and bring it over the air the next morning, if possible, and convey all the information to the Allies. I wrote a draft and Cousens corrected it and the next morn-

(Deposition of Nicolaas Schenk.)

ing I gave this piece to Domato who brought it to the office and told me about two hours later: "Okay, Niek, you go on the air." Two days later we got another air raid and again leaflets, and I got hold of a leaflet through Parkyns who brought one from the studio, and on those leaflets the chopsticks were placed in front and the flower vase was standing in the correct place.)

Q. In other words, the script which you prepared called attention to the fact that the original leaflet was erroneous according to Japanese etiquette?

Mr. DeWolfe: Objected to as incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. Yes, sir.)

Q. What kind of script did you write? Covering what kind of subject?

Mr. DeWolfe: I object to that as not connected with the issues in this case and incompetent.

The Court: Objection sustained.

(A. You mean generally?)

Q. Yes.

Mr. DeWolfe: I object to that question; incompetent, irrelevant and immaterial, the same matter.

The Court: The objection is sustained.

(A. Cooking lessons; talks to the women and once in a while a [19] political commentary.)

Q. I am referring to the chopsticks. What kind of script did you use to tell the American forces

(Deposition of Nicolaas Schenk.)

about the mistake they made in the rice table setting according to Japanese custom.

Mr. DeWolfe: I object to that as incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. I started telling them that the Japanese housewife had a hard time to get along with the rations they got; that they had a still harder time to please their husbands but nevertheless they found a way to please their husbands by cleaning the house by the time the man came home and taking the utmost care with the table arrangement so that it was perfect because the Japanese men were sticking to the customs and they want the rice table to be prepared according to the old customs; the chopsticks arranged just right, and I repeated that once more at the end of the commentary.)

Q. Camp Bunka was never bombed, was it?

A. No, sir.

Q. Was the area in the immediate vicinity of Camp Bunka bombed? A. No, sir.

Q. How far did the bombings take place with relation to the Bunka?

A. The exact bombings never came any further than the university well on the safe distance from the camp because there is a street in between and in the front street Kanda street.

Q. Is it significant to you that Camp Bunka was never bombed?

Mr. DeWolfe: I object to that as calling for a

(Deposition of Nicolaas Schenk.)

conclusion; incompetent, irrelevant and immaterial, not related to any issue in this case.

The Court: Objection sustained.

(A. Well, we hope that—at least some of us believed that our broadcasts were listened to by authorities and that they guessed our camp was there.)

Q. Was there any landmark about the place that you used? [20]

Mr. DeWolfe: Same objection.

The Court: Objection sustained.

(A. We used in a couple of scripts the smoke-stack which stands almost in the middle of Bunka.)

Q. Now, at Bunka you prisoners were quartered in the back portion of the camp?

A. Yes, sir.

Q. What was in the front portion?

A. That was occupied by the officers, from Tsuneishi and his superiors.

Q. Can you describe Major Tsuneishi to us with regard to his manners and his stature?

Mr. DeWolfe: I object to that as too general; incompetent, irrelevant and immaterial; not related to the issues in this case.

The Court: Objection sustained.

(A. Small Japanese fellow; typical army officer; arrogant, obviously suffering from an inferiority complex before white men. Tried to conceal that by acting militarily.)

(Deposition of Nicolaas Schenk.)

Q. Did you ever see him shake or rattle his sword?

Mr. DeWolfe: Objected to as incompetent, irrelevant.

The Court: Objection sustained.

(A. That was his usual custom.)

Q. Was that true likewise of Hamamoto?

Mr. DeWolfe: Objected to as irrelevant and incompetent.

The Court: Same ruling.

(A. Hamamoto had some more powers because he had more physical bearing, but otherwise had far less intelligence than Tsuneishi. Tsuneishi was more or less to be regarded as the brain while Hamamoto was to be regarded as a dumb fellow.)

Q. Did you talk with Cousens and Ince and others from time to time, about the broadcast and attempt to give information to the allies over the air?

Mr. DeWolfe: I object to that as incompetent, irrelevant and immaterial, and too general. [21]

The Court: Objection sustained.

Mr. Collins: This bears directly upon the testimony of both Cousens and Ince, if your Honor please, concerning what they were endeavoring to do.

Mr. DeWolfe: It does not say it is with reference to the Zero Hour program. It does not mention the time. It has other people in there. To me it definitely refers to another program. There is no

(Deposition of Nicolaas Schenk.)

showing it has anything to do with the program with which the defendant was involved.

Mr. Collins: You are assuming something.

The Court: The Court has ruled. The objection is sustained.

(A. We had several conferences about it. We were always planning to use the information we got into the scripts.)

Q. Lt. Schenk, you had no part in the Zero Hour, is that correct?

A. Yes, that is correct.

Q. And, therefore, you are not in a position to testify as to Iva D'Aquino, as to what she did on the Zero Hour?

A. No, sir.

Q. Did you ever have a discussion with Cousens about the work he was doing in training announcers?

Mr. DeWolfe: I object to that as calling for hearsay; incompetent, irrelevant and immaterial.

The Court: The objection is sustained.

Mr. Collins: It relates to the training even of the defendant.

The Court: The Court has ruled. The objection is sustained. It is clearly hearsay.

(A. Cousens told us that he was trying to get hold of some—to train some people who were able to convey in scripts that double meaning as good as possible and when I asked once if the double meaning is not the same no matter how you pronounce it, he said, no, in particular to a man who has to

(Deposition of Nicolaas Schenk.)

listen the double meaning becomes valuable by the pronounciation and articulation. [22]

Q. Lt. Schenk, you lived in the Orient for a number of years? A. Yes.

Q. How many? A. Up to now about 22.

Q. Did Uno come into the broadcasting room with the prisoners of war?

Mr. DeWolfe: I object to that as immaterial, no showing that it has anything to do with the Zero Hour program, too remote; incompetent, irrelevant and immaterial.

The Court: It has to do with the Zero Hour. I will allow it.

Mr. DeWolfe: I said there is no showing of that.

The Court: The question embodies that. Read the question.

Q. Did Uno come into the broadcasting room with the prisoners of war? A. Always.

Q. Where would he be sitting when you were broadcasting?

Mr. DeWolfe: I object to it as incompetent, irrelevant and immaterial. It had nothing to do with the Zero Hour program. For instance, this witness has already testified on the last page he is not in a position to testify as to Iva D'Aquino as to what she did on the Zero Hour. He had no part on the Zero Hour himself, this witness, so obviously he must be talking about some other program. It does not relate to the issues involved in this case.

(Deposition of Nicolaas Schenk.)

The Court: Objection sustained.

(A. Mostly across the man who was on the air.)

Q. And what, if anything, was he doing?

Mr. DeWolfe: Objected to as incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. Guarding us in regard to the script.) [23]

Q. Did you know Mr. Oki?

A. I now a name Oki. I would not be able to say, "This is Oki, and this is Mr. Yoshi."

Q. When did you meet a man by the name of Mr. Oki, if you recall? A. In the studio.

Q. Did you speak to him? A. No, sir.

Q. Did he speak to you?

A. All those Japanese around there would once in a while speak to us, and the kind ones, so to say, I remember quite well because their way of speaking was different, all the others using more or less ordering form of speaking.

Q. Did Oki lead you to believe that he could not speak English?

Mr. DeWolfe: I object to that as calling for a conclusion.

The Court: Objection sustained.

(A. I know one occasion when I asked a question about needles necessary for the correct recording, I got the impression he did not understand. Later on I heard from Henshaw that that fellow had been born in the States or had been in the States and knew better English than even I did,

(Deposition of Nicolaas Schenk.)

and he said something like "You better watch that fellow."

Lt. Schenk, Mr. Storey, in one of his previous depositions, asked about supplying women to Major Cousens. Do you know something about that occasion?

A. When Major Cousens came in our camp, and he and I became very intimate, he told me that previously they had been located in the Dai Iti Hotel and that they always brought women there, and they would say: "Won't you come along with us, we are going there and there," and that he once, I believe it was once, that one of the fellows went to Yokohama and that they insisted that he take a girl but that he had only danced with that girl or just sat down and drank something and after he went home. Personally I know Cousens was of too high moral standards to forget the fact that he was married. Besides that I rather doubt that anybody living under the conditions we were living under could stand a woman. [24]

Q. Do you remember an occasion when prisoners of war at Bunka Camp asked for a priest so that they could have confession?

Mr. DeWolfe: I object to that as incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. They asked for that repeatedly.)

Q. Did you ever receive the benefit of a priest?

(Deposition of Nicolaas Schenk.)

Mr. DeWolfe: I object to that as irrevelant and incompetent.

The Court: Objection sustained.

(A. No, sir, we even asked permission to hold ourselves a religious worship meeting, so to say, which was absolutely forbidden.)

Q. Did some Japanese general come to that camp when you first arrived?

A. We had several high ranking visitors.

Q. Do you remember one general in particular coming to the camp after Tsuneishi's first speech?

A. Yes.

Q. Do you know who that general was?

A. I am not quite sure about his name, but it was not Arusi, it was Asaka, something like that. I am not sure about the name.

Q. Do you know the Japanese name given to Bunka Camp? A. No, sir.

Q. Was there any sign in Japanese outside of the camp, indicating that it was some kind of institute? A. No, sir.

Q. Did you ever ask the intervention of any neutral government to assist the prisoners of war in that camp?

A. We expressed several times the wish to see a representative from a neutral country.

Q. Were you given that privilege?

Mr. DeWolfe: I object to that as incompetent, irrelevant and immaterial and not relevant to the issues in this case, the Zero Hour program.

(Deposition of Nicolaas Schenk.)

The Court: The objection is sustained.

(A. Never, sir.) [25]

Q. You mentioned the name Yoshi. What did he do there?

Mr. DeWolfe: I object to that as incompetent, irrelevant and immaterial, having nothing to do with the Zero Hour program.

The Court: Objection sustained.

(A. He was a young fellow, young Japanese who spoke rather fluent English, I should say, American, who told that he had been in America to buy scrap iron. He was attached to our camp as a kind of a spy and after some time being in our camp he told us: "You fellows better not talk about anything in my presence which could do harm to you because after all it is my job, do you understand?" And we understood.)

Q. Did you ever report Tsuneishi to your government after the war?

Mr. DeWolfe: I object to that as immaterial and incompetent.

The Court: Objection sustained.

(A. I reported him to my government, Major Tsuneishi, Hamamoto, Uno, and Ikeda, as war criminals.)

Mr. DeWolfe: I do not offer the cross examination. If your Honor wishes me to state the Government's position with reference to the applicability of rule 15, Federal Rules of Criminal Procedure, subdivision e, on that matter, I will.

(Deposition of Nicolaas Schenk.)

The Court: I am not familiar with it. What is it?

Mr. DeWolfe: I just do not offer the cross examination. Apparently the new criminal rules for the first time have a specific provision with reference to the taking of depositions, as your Honor is well aware, and there are two pertinent parts with reference to the matter I am now speaking about. Rule 15, subdivision e at the top says:

“At the trial or upon any hearing, a part or all of the deposition, so far as otherwise admissible under the rules of evidence, may be used if it appears:—”

and then there are certain contingencies which must occur:

“The witness is not available. The witness must be dead or outside [26] the jurisdiction of the United States.”

Later on at the end of the rule there appears the following:

“If only a part of a deposition is offered in evidence by a party, an adverse party may require him to offer all of it which is relevant to the part offered and any party may offer other parts.”

It is to some extent at least, similar to companion provisions with reference to that matter as to the use of parts of a deposition by parties litigant before a United States court as mentioned in the Federal Rules of Civil Procedure. Of course, we all know that depositions for a defendant were allow-

(Deposition of Nicolaas Schenk.)

able under certain circumstances prior to the promulgation of these Federal Rules of Criminal Procedure, but now the rules with reference to the use and the taking of depositions in a criminal proceeding pending in a United States Court have been crystallized, set down in writing, and approved by the Supreme Court of the United States, and I suppose they have the force and effect of statute and law, and my impression of them is that either party can offer a part of a deposition. I therefore do not offer the cross-examination of this witness.

The Court: Proceed.

Mr. Collins: Now if your Honor please, the defendant wishes to introduce the cross-examination of the witness into evidence, together with exhibits that were introduced into the deposition by stipulation, and attached to the deposition by counsel for the prosecution, Mr. Storey; and in addition to that, we desire to offer in the redirect examination by Mr. Tamba and the recross-examination by Mr. Storey.

The Court: I have never run into this situation before.

Mr. DeWolfe: I have never, either, sir.

Mr. Collins: Neither have we, if your Honor please, but here is a deposition which is taken abroad under rather peculiar and extraordinary circumstances, and it was the only method by which the defendant was able to obtain the testimony of

(Deposition of Nicolaas Schenk.)

witnesses abroad. I may state that the matters of cross-examination are directly [27] relevant and pertinent to the vital issues that are involved in this case, and since a portion of the deposition, that is, the direct examination, has been offered, if counsel for the prosecution is not going to read the cross-examination and the redirect and recross-examination, then the defendant insists upon the right to having this matter introduced into evidence, the testimony together with the exhibits themselves, which were offered merely for identification, but which were introduced in evidence by counsel for the prosecution in connection with the taking of this deposition.

Mr. DeWolfe: Could I make one more statement in reference to procedure? The government takes the position that Mr. Collins has the right to offer this other part, subject to any objections which the United States seeks to interpose before your Honor's ruling on that. On that matter the rules are apparently such as to give him the right to do that.

The Court: Proceed.

Mr. Collins: Yes. This is the cross-examination of the witness Nicolaas Schenk, by Mr. Storey; reading:

(Thereupon the reading of the cross-examination of the deposition of Nicolaas Schenk was commenced, the questions being read by Mr. Collins and the answers by Mr. Tamba.)

(Deposition of Nicolaas Schenk.)

Q. Did your government institute an investigation as a result of your reporting these men as war criminals? A. Never did, sir.

Mr DeWolfe: Object to that as being incompetent, irrelevant and immaterial.

Mr. Collins: That is cross-examination, if your Honor please, by the attorney for the prosecution, and it seems to me that under the circumstances they would be barred from voicing objections.

Mr. DeWolfe: Well, it is with reference to a matter that has gone out on direct, sir, in the case in chief, gone out. [28]

The Court: Read the question again.

Mr. Collins: Did your government institute an investigation as a result of your reporting these men as war criminals?

The Court: The objection will be sustained.

Q. Were these men ever tried as war criminals?

Mr. DeWolfe: I object to that as being incompetent, irrelevant and immaterial.

The Court: The objection will be sustained.

(A. No, sir.)

Q. Approximately how many Allied prisoners were in Japanese custody at the time you were selected for radio work?

Mr. DeWolfe: I object to that as incompetent, immaterial and irrelevant.

The Court: Radio work?

Mr. Collins: Yes.

The Court: On the Zero Hour?

(Deposition of Nicolaas Schenk.)

Mr. Collins: Well, it doesn't specify that it was on the Zero Hour.

The Court: The objection will be sustained.

(A. When we were brought to Omori we were gathered with about sixty people.)

Q. Do you have any idea how many allied prisoners of war were altogether in the custody of the Japanese to work for the radio?

Mr. DeWolfe: Object to that as incompetent, immaterial and irrelevant.

Mr. Collins: It is preliminary, if nothing else.

The Court: Unless it is connected with the Zero Hour, I will sustain the objection.

Mr. Collins: It doesn't so appear; it is a general answer. But it does relate to this, if I may direct your Honor's attention to it. The conditions under which people were generally selected for radio work. And I think it would pertain to the very testimony that is connected—it is connected with the testimony of Major Tsuneishi, who stated the circumstances under which people were selected from various areas, to be brought to Japan for that area. [29]

The Court: Too general, the objection will be sustained.

(A. All over Japan?)

Q. Yes.

Mr. DeWolfe: Object to that.

The Court: Objection sustained.

(A. No, sir.)

(Deposition of Nicolaas Schenk.)

Q. One hundred thousand? One hundred fifty thousand?

Mr. DeWolfe: Object to that as incompetent, immaterial and irrelevant and having nothing to do with the Zero Hour program in Radio Tokyo.

The Court: Objection sustained.

(A. It could have been any number.)

Q. How many prisoners of war were at Camp Bunka?

Mr. DeWolfe: Object to that as incompetent, immaterial and irrelevant.

The Court: Objection sustained. Proceed.

(A. In Bunka we had around twenty-five.)

Q. Twenty-five was the average while you were there?

Mr. DeWolfe: Object to that as incompetent, immaterial and irrelevant.

The Court: Objection sustained.

Mr. Collins: The answer incorporated Major Cousens and Captain Ince, if your Honor please.

The Court: I think there was some testimony in the record about 12 or 15 or something.

Mr. Collins: It would increase to 25 or 27, minus 2, I think.

The Court: Well, whether there was 25 or 50, what relation has it to the issues involved in this case?

Mr. Collins: Has your Honor ruled?

The Court: The objection will be sustained.

(A. When we came we had only a few but we

(Deposition of Nicolaas Schenk.)

got twenty later. Cousens and Ince were brought in, and later five other people were brought in, and later one was brought in, which made it about twenty-five.) [30]

Q. Did any prisoner of war refuse to do broadcasting for the Japanese after he had received the order to broadcast?

Mr. DeWolfe: Object to that as incompetent, irrelevant, not related to the issues in this case.

The Court: Objection sustained.

Mr. Collins: It relates—I was going to point out, if your Honor please, that it relates to the question of the orders that were given to these people and the circumstances under which they were compelled to broadcast.

The Court: What relation have those orders to the issues involved here?

Mr. Collins: It has this relation, it relates directly to the orders given to Captain Ince and Major Cousens, who were detained at Bunka, who were there ordered to broadcast by Major Tsuneishi and by others.

The Court: On the Zero Hour?

Mr. Collins: That was on the Zero Hour, yes, your Honor.

The Court: Is there anything there connecting that up with the Zero Hour?

Mr. Collins: No, save and except the general orders given to the prisoners of war at Bunka,

(Deposition of Nicolaas Schenk.)

among whose numbers were Major Cousens and Captain Ince, and as to what they must do.

The Court: Objection will be sustained.

(A. Yes, sir. Several times. It was not directly refused because of fear of dire punishment by way of execution but by trying to bring up some points which could dismiss a prisoner from broadcasting. That one instance when Shattles told Uno: "I would rather get shot than broadcast this stuff," he was taken aside by Uno and had a severe talk with him and he came to us crying and crying "What shall I do? What shall I do?" and the final thing that we thought and we told him that no government would accept such a broadcast as treason because of the fact that this was just too obvious.) [31]

Q. Isn't it a fact that George Williams, a British subject, refused outright to do propaganda broadcasts?

Mr. DeWolfe: Objected to as incompetent, immaterial and irrelevant.

The Court: Objection sustained.

(A. It was not spoken of as broadcast. Williams refused to cooperate before we even knew what was going to happen.)

Q. Was Williams killed as a result of that refusal?

Mr. DeWolfe: Objected to as incompetent, immaterial and irrelevant.

(Deposition of Nicolaas Schenk.)

The Court: Same ruling, objection will be sustained.

(A. Up to the end of the war, when I came to Manila, I never knew nothing else but that Williams was killed. In Manila I heard he was sent to another camp and held there.)

Q. Captain Kalbfleisch refused also later to do broadcasting, did he not?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. I don't know whether it was a question of refusal.)

Q. He was transferred from the camp?

Mr. DeWolfe: Objected to as immaterial.

The Court: Objection sustained.

(A. He was transferred suddenly and it was told to me, or to us, rather, that it was because of sabotage. I believe Uno accused him of writing double meaning scripts.)

Q. Was he executed for this?

Mr. DeWolfe: Objected to as incompetent, immaterial and irrelevant.

The Court: The objection will be sustained.

(A. I did not know any better until I met him in Manila, after the end of the war.)

Q. At the time you saw him after the war, he was all right?

Mr. DeWolfe: I object to that as incompetent, irrelevant and immaterial.

The Court: The objection will be sustained. [32]

(Deposition of Nicolaas Schenk.)

(A. He was, yes, sir. I wonder if it is of any value if I add that the man's belongings were standing in the camp for quite a number of weeks and I personally asked Uno, just to find out what happened to Kalbfleisch, isn't it necessary that we send that stuff to the boy, after all he will need it, and Uno said: "No, he will not need it." This gave me the absolute belief he was executed.)

Q. Was George Uno transferred from Camp Bunka while you were there?

Mr. DeWolfe: Objected to as not related to the issues involved in this case and incompetent, irrelevant and immaterial.

Mr. Collins: I may point out that the testimony was that Uno was one of the watchers that was sent to watch the Zero Hour program while Cousens and Ince were on that program.

Mr. DeWolfe: Now they are asking, your Honor, as I remember about what he did at Camp Bunka and whether he was transferred from Camp Bunka to some other place.

Mr. Collins: Yes, whether he was taken away from the camp.

The Court: Whether he was or not has no relevancy in this case. The objection will be sustained.

(A. Buddy Uno left the camp, I believe, in 1944, but I am not quite sure.)

Q. Are you aware of the fact that he was transferred from Camp Bunka because he mistreated Naval Lt. Henshaw?

(Deposition of Nicolaas Schenk.)

Mr. DeWolfe: Object to that as irrelevant.

The Court: Objection sustained.

(A. No.)

Q. It was not well known he was relieved because he mistreated one of the prisoners of war.

Mr. DeWolfe: Object to that as irrelevant and incompetent.

The Court: Objection sustained.

(A. No.)

Q. Was any other person connected with the camp relieved because he slapped or mistreated the prisoners of war, to your knowledge?

Mr. DeWolfe: Same objection.

The Court: Objection sustained.

(A. Not to my knowledge.) [33]

Q. Who was the protecting power for the Allied interests in Japan during the war?

Mr. DeWolfe: Object to that as irrelevant.

The Court: Who was that?

Mr. Collins: Protecting power for the Allied interests in Japan.

The Court: Objection sustained.

(A. If I am not mistaken, the Swedish Legation acted as the representatives of the Netherlands Government and the Swiss Legation represented the American and English, I am not quite sure.)

Q. Did you ever submit a formal request to Major Tsuneishi, who was in charge of that camp,

(Deposition of Nicolaas Schenk.)

to see a representative of the Swedish Government?

Mr. DeWolfe: Object to that as incompetent, irrelevant.

The Court: What is the name of this witness that is being examined?

Mr. Collins: Schenk, Nicolass Schenk, Lieutenant Nicolass Schenk.

The Court: Objection sustained.

Mr. DeWolfe: He is a Dutch prisoner of war, I think.

(A. There was no such a possibility to submit such a request.)

Q. Did you ever attempt to submit such a request to Tsuneishi?

Mr. DeWolfe: I object to that as not having any bearing on the issues involved, incompetent.

The Court: Objection sustained.

(A. Yes.)

Q. Did you talk to Tsuneishi?

Mr. DeWolfe: Object to that as incompetent, irrelevant.

The Court: Objection sustained.

(A. Never got the chance.)

Q. Did you ever talk to Tsuneishi at all?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. Never got the chance.) [34]

Q. Did you ever protest to Major Tsuneishi about misappropriation of Red Cross parcels which

(Deposition of Nicolaas Schenk.)

were supposed to be distributed in the camp?

Mr. DeWolfe: Same objection.

The Court: Objection sustained.

(A. I protested to the interpreter—that means to say protest is too strong an expression. I told the interpreter that to my belief there were more Red Cross packages across the way, and whether he would be so kind as to call Major Tsuneishi's attention to that?)

Q. Did you ever request through the interpreter to have an interview with Major Tsuneishi?

Mr. DeWolfe: Objected to as irrelevant.

The Court: Objection sustained.

(A. These requests were always——)

Q. Did you ever make such a request?

Mr. DeWolfe: Object to that as incompetent, irrelevant.

The Court: Objection sustained.

(A. Oh, yes.)

Q. After you had made this request to have the Red Cross packages distributed, were they distributed?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. No, sir.)

Q. They were not distributed at all after that request was made?

Mr. DeWolfe: Same objection.

The Court: Same ruling. The objection will be sustained.

(Deposition of Nicolaas Schenk.)

(A. They were distributed to us as a kind of reward, but quite a while later.)

Q. What were the prisoners of war doing in Camp Bunka?

Mr. DeWolfe: Object to that as incompetent, irrelevant.

The Court: Objection sustained.

(A. You mean daily activity?)

Q. No, what were you, all of you, doing there?

Mr. DeWolfe: Object to as incompetent, irrelevant.

The Court: Objection sustained.

(A. Well, we had to take care of the camp. I, myself, of course, of the drawing of supplies and preparing them, and the others had their own activities, such as cleaning up the place, making the baths for the Japanese.)

Q. Were these prisoners of war broadcasting propaganda for the Japanese Government?

Mr. DeWolfe: Object to it as immaterial.

The Court: Objection sustained.

(A. All of us were connected in one way or another with the broadcast.)

Q. And the scripts were written by the prisoners of war and were designed to be propaganda against the Allied forces?

Mr. DeWolfe: Objected to as incompetent, irrelevant.

The Court: Unless it is connected up with the Zero Hour, the objection will have to be sustained.

(Deposition of Nicolaas Schenk.)

All these questions that are being propounded, the jury must regard as not evidence, and not to be considered for any purpose in this case.

(A. We got a certain subject and we got point out what we should write about.)

Mr. Collins: What is the next line, Mr. Tamba?

Mr. Tamba: I think it is 14, unless I got lost.

Q. And the scripts were written by the prisoners of war and were designed to be propaganda against the Allied forces?

Mr. Collins: Did I just read that?

Mr. DeWolfe: Objected to as irrelevant and immaterial.

The Court: I sustained the objection to that, unless it is connected up with the Zero Hour.

Mr. Collins: Well, we are endeavoring to connect that, if your Honor please, and we think that there is already testimony in the record——

The Court: Well, it may or may not develop. Unless they are connected up, it is clearly my duty to sustain the objections to them. [36]

Q. But it was propaganda?

Mr. DeWolfe: Object to that as incompetent, irrelevant.

The Court: Objection sustained.

(A. It was always more or less propaganda.)

Q. You have testified that the prisoners of war were putting a double meaning into their broadcasts?

Mr. DeWolfe: Same objection.

(Deposition of Nicolaas Schenk.)

The Court: What broadcasts?

Mr. Collins: This related just generally to the prisoner of war broadcasts, to all the prisoner of war broadcasts, not to any one particular one, but to all prisoner of war broadcasts.

Mr. DeWolfe: That is why it is objectionable, sir.

The Court: The objection will have to be sustained.

Mr. Collins: I am pointing out, if your Honor please, that if the double meanings are being put into all the prisoner of war broadcasts, pursuant to an agreement or understanding of the prisoners of war, then it includes also the Zero Hour and such other programs as the prisoners of war were compelled to broadcast on.

The Court: The objection will have to be sustained.

(A. Yes.)

Q. Give us all the examples, if you can remember them, of scripts with double meanings. You need not repeat the one you gave to Mr. Tamba with regard to the rice table.

Mr. DeWolfe: Object to it, incompetent, irrelevant.

The Court: Objection sustained.

(A. I think it is putting quite a strain on a man to recall that, but for instance I recall that in the scripts that were supposed to be prepared by Henshaw and Cousens and others, that we tried

(Deposition of Nicolaas Schenk.)

to get across how exactly the prisoners of war were treated by the Japanese; what happened to the Red Cross supplies, and what, in general, the behaviour of the Japanese was.)

Q. Tell us how you got that into the scripts?

Mr. DeWolfe: Object to that as incompetent, irrelevant.

The Court: Objection sustained. [37]

(A. It is impossible for me to recall that exactly. I cannot tell you exactly that the script contained that and that.)

Q. In other words, the only example you can remember is the one you gave Mr. Tamba?

Mr. DeWolfe: Same objection your Honor.

The Court: Objection sustained.

(A. Yes.)

Q. You have testified that you were in charge of the kitchen at Camp Bunka for a while. Were you relieved of that duty later?

Mr. DeWolfe: Same objection, sir.

The Court: Objection sustained.

(A. Yes, sir.)

Q. What was the reason given for relieving you from this duty?

Mr. DeWolfe: Same objection, sir.

The Court: Same ruling.

(A. Because they caught a couple of my boys stealing. We were on a stealing party to get food.)

Q. Did any of the other prisoners of war ever accuse you of misappropriating food in the kitchen?

(Deposition of Nicolaas Schenk.)

Mr. DeWolfe: Object to that as hearsay, calling for a conclusion, incompetent, immaterial and irrelevant.

The Court: Objection sustained.

(A. You mean the prisoners of war accusing me?)

Q. Yes.

Mr. DeWolfe: Object to that.

The Court: Objection sustained.

(A. No, sir.)

Q. Do you recall an incident that happened on February 24, 1945, when there was quite an investigation of activities in the kitchen?

Mr. DeWolfe: Object to that as incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. You mean by the Japanese?)

Q. Yes, when the American prisoners, the other prisoners of war accused you of taking food out of the kitchen?

Mr. DeWolfe: Object to that as immaterial and incompetent. [38]

The Court: Objection sustained.

(A. Never from the American prisoners of war.)

Q. From any prisoners of war?

Mr. De Wolfe: The same objection, sir.

The Court: Same ruling.

(A. No.)

Q. Can you recall the date that you were relieved from your duties in the kitchen?

(Deposition of Nicolaas Schenk.)

Mr. De Wolfe: Objected to as immaterial.

The Court: Objection sustained.

(A. That, if I am not mistaken, was in '45, somewhere around the beginning of 1945.)

Q. You have mentioned in these orders that were given to the prisoners of war at the camp that if the prisoners of war did not cooperate with the program they would be executed. Was the word "executed" used or, that if you did not work, your life would not be guaranteed?

Mr. De Wolfe: Objected to as incompetent, immaterial and irrelevant.

The Court: Objection sustained.

(A. They used the expression "your life would not be guaranteed.")

Q. In other words, they did not say you would be executed?

Mr. De Wolfe: Same objection, your Honor.

The Court: Objection sustained.

(A. I asked Uno for their interpretation of several Japanese words and he told me that I had to understand the meaning of "nothing is guaranteed" and "your life is not guaranteed" in the way the Japanese regarded the prisoners of war and later he explained that in detail to the whole assembly of prisoners of war that prisoners of war was an unknown thing to Japanese, and, therefore, the prisoners of war were called by the name of "horyo" which also, according to him, meant to express the lowest type of criminal. [39])

(Deposition of Nicolaas Schenk.)

Q. Did you know the literal translation of the orders given by superiors, given at Camp Bunka?

Mr. De Wolfe: Answer it.

A. No, sir.

Q. Whenever you were given an official order, was it ever interpreted to the prisoners of war that they would be executed if they did not cooperate.

A. I got that impression.

Mr. De Wolfe: Objected to as incompetent, irrelevant.

The Court: What was the answer, he got that impression?

Mr. Tamba: He got that impression.

The Court: The objection will be sustained, and let it go out and let the jury disregard it.

Q. Did they say that?

Mr. De Wolfe: Object to that as hearsay, incompetent, irrelevant and immaterial, has nothing to do with the Zero Hour, as this witness has testified he didn't participate in the Zero Hour, didn't know anything about it.

The Court: Objection sustained.

(A. No, sir, not in so many words.)

Q. You have testified that on the occasions you saw Major Tsuneishi, he was always in uniform and was wearing a sword. Was the usual uniform of the Japanese officer of field rank, the carrying of a sword?

Mr. De Wolfe: I object to that as incompetent, immaterial and irrelevant.

(Deposition of Nicolaas Schenk.)

The Court: Objection sustained.

(A. I don't know, sir.)

Q. Was anyone ever killed in Camp Bunka for not carrying out orders in Camp Bunka?

Mr. De Wolfe: Objected to as incompetent.

The Court: Objection sustained.

(A. No, sir.)

Q. Was Major Tsuneishi ever present when you saw any of the prisoners of war at Camp Bunka being mistreated? [40]

Mr. De Wolfe: You may answer if you want.

A. I do not recall clearly such an occasion.

Q. What is your answer to my question?

A. No, sir.

Q. Did you know Miss Toguri at all during the time you were working at the radio station?

A. I know quite a few of the girls, but not by name, just nicknames, like Miss Toguri was called and known by the name "Anne," and so were all the other girls, I believe. I believe I saw her a couple of times at the studio around there.

Q. Did you ever see Miss Toguri broadcast?

A. No, sir.

Q. Did you ever hear one of her broadcasts?

A. No, sir.

Q. What time did your program go on the air when you were broadcasting?

Mr. DeWolfe: Will you read that question again?

Q. (By Mr. Collins): What time did your program go on the air when you were broadcasting?

(Deposition of Nicolaas Schenk.)

Mr. DeWolfe: Object to that as immaterial, it is not the Zero Hour program.

The Court: Objection sustained.

(A. Our program went on the air, I believe, between 12 and 1:00.)

Q. What time did the Zero Hour go on the air?

A. Some time in the afternoon, some time around four or five o'clock.

Q. Did you remain at the studio—at the radio station after you finished broadcasting?

A. We remained for about half an hour, sometimes an hour, and then we went. It all depended on whether our escort was there.

Q. Were you ever present at the radio station as late as six or seven o'clock?

A. I, myself, never.

Q. Have you seen the defendant since the war, Miss Toguri? A. No. [41]

Q. In other words, the only times you can ever remember seeing her are the two or three times you have testified to here? A. Yes.

Q. At any time since the end of the war, have you contacted any people in an effort to prepare the evidence for Miss Toguri's defense?

A. No, sir. May I know a little bit more about it? I say, no, but about a few weeks ago I got a letter from the lawyers firm Fred Collins in San Francisco, I believe, asking me if I can give answer to certain questions as to how her employment arose.

(Deposition of Nicolaas Schenk.)

So and so on. Later I was called by Mr. Tamba. That is the only two occasions.

Q. Since the war you have never approached any persons who were formerly connected with the radio station in an effort to prepare a defense for Miss Toguri? A. No, sir.

Q. Do you know a person by the name of Lilly Ghevenian? A. Lillian?

Q. Do you recall writing her a letter suggesting to get people together and prepare a defense for Miss Toguri? A. Yes.

Q. Then the answer you gave me a little while ago is not true?

A. I wanted to have some more information on it.

Q. What did you say in that letter?

A. I don't recall but I got a letter from the lawyer and I recalled that after the war we had an investigation here about Tokyo Rose, they called this girl, and I saw the picture of the girl in the newspaper and I recalled that face as having seen once or maybe twice. I am pretty strong in remembering faces, and I immediately connected this girl with the girl I knew at that time as Ann. I knew from Cousens that that girl had been of great help to him, with the result that I tried to get—recollect everything, and later when I got that letter from the lawyers' firm, that immediately remembered that girl working there continually in Radio Tokyo [42] and she must be known by some other

(Deposition of Nicolaas Schenk.)

people whom I knew, like Lillian and Jane Sagoyan. I knew just about the address from Jean Sagoyan and I thought I better write that a girl a note so as the lawyers could get in touch with them, and if she would be of any value to use it. I don't remember what I wrote to that girl.

(During the reading of the aforesaid deposition, the following occurred:)

Mr. Collins: And then questions by Mr. Tamba. This would be redirect.

The Court: Will we be able to conclude?

Mr. Collins: It is about six or seven pages, your Honor.

The Court: The jurors may be excused until 2:00.

(Thereupon a recess was taken until 2:00 p.m. this date.)

Mr. Tamba: Line 3, page 26, Mr. Collins.

Mr. Collins: "Mr. Tamba: I demand that if you have a letter written by this witness, that he be shown it before he be requested to testify as to what he wrote in it."

Mr. DeWolfe: I have not any such letter now in our possession. I have never seen it that I recall, if the demand is renewed.

Mr. Collins: I assume that the letter was not produced. The letter was ignored. You can see that from the nature of the question.

Q. You have testified previously that you saw

(Deposition of Nicolaas Schenk.)

that girl once or twice, and that you did not know what she was doing at the radio station?

A. Well, we knew from all the Nisei girls and the Nisei boys that they were broadcasting.

Q. Why were you so anxious to help someone who collaborated with the Japanese government without knowing more about it?

Mr. DeWolfe: I will object to that as incompetent.

The Court: Objection sustained.

(A. Now we come to a very critical point. I have suffered quite a bit from this war and I know that all these Nisei boys and Nisei girls here in Japan, whether they come out here of their own free will, or forced to come back, did suffer quite a bit and it is not up to me to say whether the person has committed treason or not. Treason to me is when a person does something for gain, to get something out of it for personal benefit or out of a belief. While I personally did not believe that anybody, a Nisei boy or Nisei girl working in Radio Tokyo at that time, which the Japanese regarded as neither fish nor fowl, would be regarded as treason—to commit treason.

Q. Do you know whether or not Miss Toguri was paid at Radio Tokyo?

A. I do not care what she was paid.

Q. In other words, you are willing to defend her without knowing more than that?

Mr. DeWolfe: I object to that, Your Honor.

(Deposition of Nicolaas Schenk.)

The Court: Objection sustained.

A. I would be willing to defend her only on the fact already that she helped the prisoners of war by giving information or anything else.

Q. Did you mention that trip to the United States in this letter to these people that they would help with the defense?

Mr. DeWolfe: I object to that as incompetent.

The Court: Objection sustained.

Mr. Tamba: I again demand that if counsel has a letter written by this witness that it be shown to him before he is requested to give any further testimony as to the contents of such letter.

(Letter dated Tokyo, 24 February, 1949, addressed: "Dear Lill and Jenny" was shown to witness by Mr. Storey.)

(A. Yes.)

Q. How did you propose to arrange this trip to the United States for them?

Mr. DeWolfe: I object to that as incompetent and immaterial.

The Court: Objection sustained.

(A. I am willing to give them myself some few hundred dollars. [44] This girl Jenny Sagoyan was so good to my fellow-prisoner, to one of my mates, and did so much to keep him alive, and I am willing to pay a certain amount of money to get that girl to the States.)

Q. In other words, you are willing to go to any effort to get that girl to the United States?

(Deposition of Nicolaas Schenk.)

Mr. DeWolfe: I object to that as incompetent.

The Court: Objection sustained.

(A. No, not to any effort, but I certainly feel this is a part of my duty to help at least that girl after what she has done, even if it has not been done to myself. During that time we regarded ourselves as so close together, we went through so many things, that it was no difference whether it was for me or anyone else, even Mark Streiter.)

“Mr. Story: The prosecution would like to offer this letter as Government’s Exhibit ‘1’ in Schenk deposition.

Mr. Tamba: No objection.”

Mr. Tamba: The letter is appended to the deposition, but I understand counsel has objected.

Mr. DeWolfe: I am not offering any letter.

Mr. Collins: It was a letter which the prosecution offered. Is it attached?

Mr. Tamba: It is attached to the original.

Mr. Collins: The letter which was attached as Prosecution’s Exhibit 1 to this deposition reads as follows:

Mr. DeWolfe: I will object to it. We did not offer that exhibit, and if he offers it as part of the cross-examination, we will object to it. We did not offer any of the cross-examination. It is not proper. Objection was sustained to the direct examination. I take the position I am not offering any cross-examination.

The Court: Submitted?

(Deposition of Nicolaas Schenk.)

Mr. Collins: Yes.

The Court: Now for the purpose of the record, you may indicate the purpose of this offer [44-A]

Mr. Collins: The purpose of this offer is to show that a letter dated Tokyo, 24 February, 1949, addressed to Lt. Nicolaas Schenk, custodian officer. Netherlands Legation, General Headquarters, APO 500, care of Postmaster, San Francisco, California, and addressed to "Dear Lil and Ginny," and signed by——

The Court: The best approach to that would be to indicate in what manner this letter should go in evidence, on what theory and what relation has it to any issue in this case.

Mr. Collins: It relates to this, if Your Honor please, this request for an appointment to communicate information in the story of Radio Tokyo and to ask both of these persons, apparently Lil and Ginny, if they would go to the United States and also if they would contact all girls and boys who are acquainted with "Tokyo Rose, and tell them to communicate with the writer as soon as possible.

The Court: That has no place in this record. The objection will be sustained to it.

Mr. Collins: What line were you on?

Mr. Tamba: We are on page 28, line 1, now.

Mr. Collins: Let the record show that on page 27 Mr. Tamba stated, after Mr. Storey offered Government's Exhibit 1 attached to that deposition, that he had no objection. Now redirect examination by Mr. Tamba.

(Deposition of Nicolaas Schenk.)

Q. You feel quite keenly about the experiences you endured during the war?

Mr. DeWolfe: I object to that as not proper redirect. Cross-examination was not offered by the United States.

The Court: Objection sustained.

(A. Yes, sir.)

Q. And you know that the girl you knew as Ann did what she could for the prisoners of war?

Mr. DeWolfe: I object to that as leading, not proper redirect examination, incompetent, no cross-examination by the Government.

The Court: Clearly calling for the conclusion of the witness. The objection will be sustained.

(A. I am absolutely convinced that every Nisei girl and every Nisei boy, if they had the opportunity, would have helped us.

Q. Do you remember the incident of the blanket being brought to Camp Bunka?

Mr. Tamba: Any objection to that?

Mr. DeWolfe: No.

A. Yes.

Q. Do you know where it came from?

A. I wouldn't be able to say it came from Ann, Lillian or anyone else, but if I bring it in connection to a person who got it, and whom that person knew and was told to get in contact with, that I am almost convinced that it was Ann's.

Q. You know the blanket came to the camp?

A. Yes.

(Deposition of Nicolaas Schenk.)

Q. You also know about—you also no doubt know, Lt. Schenk, that information concerning Allied war news was supplied to Major Cousens.

A. I have said——

Q. You also know, Lt. Schenk, that sometimes food, items of food came to the camp?

A. Yes, sir.

Q. And it is your belief that it came from Ann and other Niseis? A. Yes, sir.

Mr. DeWolfe: That is calling for a conclusion.

The Court: His belief may go out. The objection is sustained.

Q. And you feel grateful for that?

Mr. DeWolfe: I object to that because he has testified only as to his belief.

The Court: Objection sustained.

(A. Yes.)

Q. And that is the reason you wrote this letter?

Mr. DeWolfe: I object to that for the same reason.

The Court: Objection sustained.

(A. Exactly.) [46]

Q. You saw me twice prior to today, Lt. Schenk?

A. Yes, sir.

Q. And I asked you if you were willing to go to the States to testify? A. Yes, sir.

Q. And you said you would be willing to go there? A. Yes, sir.

Q. I did not want to go into this, but since Mr. Storey went a little further, was the subject of cannibalism discussed among you prisoners?

(Deposition of Nicolaas Schenk.)

Mr. DeWolfe: I object to that as incompetent, improper redirect.

The Court: Objection sustained.

(A. Yes.)

Q. Tell us about it.

Mr. DeWolfe: I object to that as incompetent and immaterial.

The Court: Same ruling.

(A. We were sitting on our bunks one night, and a few of us had been punished by not eating and I was able to steal a little bit out of the Japanese ration and brought it to the people who had been punished. I don't remember the names, so after a while we were getting into the discussion "suppose you and I would sit in an open boat with nothing around us. We would be without food, so what would we do. You would watch me, expecting that I would kill you, and you say you would do the same to me." Whatever are their impressions, and we discussed that problem, that subject from all sides with the absolute belief that if it came that far that each and everyone of us would kill the other not so much for protection but to keep the belly full.)

Q. When I interviewed you, you never gave me the name of Lillian Sagoyan? A. No, sir.

Q. I talked with you about what you knew about the girls? A. That is correct, sir. [47]

Q. About this bath you mentioned to me, do you know the name of the man who was repeatedly

(Deposition of Nicolaas Schenk.)

beaten for not taking care of the Japanese bath, who was he?

Mr. DeWolfe: I object to that as incompetent, irrelevant and immaterial.

The Court: The objection is sustained.

(A. Larry Quilly.)

Q. Who beat him?

Mr. DeWolfe: I object to that as incompetent, irrelevant and immaterial.

The Court: The objection is sustained.

(A. Hamamoto and the sergeant of the Kempeitai.)

Q. Was that done frequently?

Mr. DeWolfe: Same objection to it.

The Court: Same ruling.

(A. Practically every day.)

Q. When Uno left the camp, did he make a speech and do you remember the contents or the tone, or the general import of that speech?

Mr. DeWolfe: I object to that as not bearing on any issue in the case.

The Court: Objection sustained.

(A. We held a kind of a bull session in which he said that Major Cousens was that kind of a character; that Ince was a poker player; that Ince had to be very careful because the Japanese probably could—he meant to say something of the war, that the time would not be far off when the Japanese would stand from Ince just so much; that Henshaw he regarded as a young fellow with ca-

(Deposition of Nicolaas Schenk.)

pacities but under the wrong leadership and by leadership he meant Ince, as well as Cousens, and he gave the description of everybody of us and left us more or less in the belief that he was going out to die for his country if it came so far because he was a Japanese and he was very proud of it and I believe he told us also what his brother had told him when he left.) [48]

Q. To whom did you ask—whom did you ask for the privilege to see the Swedish Legation, if you recall?

Mr. DeWolfe: I object to that as irrelevant.

The Court: Objection sustained.

(A. I am quite sure—I believe it was Osaki whom I asked once to see the Swedish representative, or the Swiss representative.)

Q. Did you come here voluntarily this morning?

A. Yes, sir.

Q. To testify in behalf of Miss Toguri?

A. Yes.

Mr. DeWolfe: The recross-examination is not offered by the Government.

Mr Collins: I will put the questions on recross.

Recross-Examination

By Mr. Storey:

Q. Did you ever see Miss Toguri at Camp Bunka? A. No.

Q. Did Miss Toguri ever give you any food?

A. No.

Q. Did Miss Toguri ever give you any medicine?

Mr. Tamba: I do not find an answer to that.

(Deposition of Nicolaas Schenk.)

Mr. DeWolfe: I do not either.

Mr. Collins: Is that the end of it then?

Mr. Tamba: On the next page.

Q. Did she ever pass on any news to you?

A. No, sir, not to me.

Mr. Collins: Is that the conclusion?

Mr. Tamba: Yes.

/s/ NICK SCHENK.

GOVERNMENT'S EXHIBIT "I"
IN SCHENK DEPOSITION

Tokyo, 24 February 1949

Lt. Nick Schenk
Custodian Officer
Netherlands Legation
General Liaison, GHQ.
APO 500, c/o P.M.
San Francisco, Cal.

Dear Lill and Jenny

I would appreciate it very much if both of you would give me an appointment as soon as possible. The thing is I would like to have some additional information in the old story of Radio-Tokyo, and if possible I would like to have both of you getting a change of going on a nice trip to the States. I also would appreciate it if you could contact all girls and boys who are acquainted with "Tokyo-Rose" and tell them to call me as soon as possible. The information I would like to have from them is

everything what can be of Value for the defense of that girl. So nobody has to fear a thing as it is for the benefit of all. Expect to receive your call soon.

Yours truly,

/s/ NICK SCHENK.

/s/ THOMAS W. AINSWORTH,

American Vice Consul.

[American Consular Service Seal.]

Japan,

City of Tokyo,

American Consular Service—ss.

CERTIFICATE

I, Thomas W. Ainsworth, Vice Consul of the United States of America in and for Tokyo, Japan, duly commissioned and qualified, acting under the authority of a certain stipulation for taking oral designations abroad, and upon order of the United States District Court, made and entered March 22, 1949, in the Matter of United States of America, Plaintiff, vs. Iva Ikuko Toguri D'Aquino, Defendant, pending in the Southern Division of the United States District Court, for the Northern District of California, and at issue between United States of America vs. Iva Ikuko Toguri D'Aquino, do hereby certify that in pursuance of the aforesaid stipulation and court order and at the request of Theodore Tamba, counsel for the defendant Iva Ikuko Toguri D'Aquino, I examined Nicolaas Schenk, at my

office in Room 335, Mitsui Main Bank Building, Tokyo, Japan, on the seventh day of May, A.D. 1949, and that the said witness being to me personally known and known to me to be the same person named and described in the interrogatories, being by me first sworn to testify the truth, the whole truth, and nothing but the truth in answer to the several interrogatories and cross-interrogatories in the cause in which the aforesaid stipulation, court order, and request for deposition issued, his evidence was taken down and transcribed under my direction by Mildred Matz, a stenographer, who was by me first duly sworn truly and impartially to take down in notes and faithfully transcribe the testimony of the said witness Nicolaas Schenk, and after having been read over and corrected by him, was subscribed by him in my presence; and I further certify that I am not counsel or kin to any of the parties to this cause or in any manner interested in the result thereof.

In witness whereof, I have hereunto set my hand and seal of office at Tokyo, Japan, this 19th day of May, A.D. 1949.

/s/ THOMAS W. AINSWORTH,
Vice Consul of the
United States of America.

Service No. 935; Tariff No. 38; No fee prescribed.

[Endorsed]: Filed May 23, 1949.

In the Southern Division of the United States
District Court for the Northern Division of
California

No. 31712 R

UNITED STATES OF AMERICA,

Plaintiff,

vs.

IVA IKUKO TOGURI D'AQUINO,

Defendant.

DEPOSITION OF TAMOTSU MURAYAMA

Deposition of Tamotsu Murayama, taken before me, Thomas W. Ainsworth, Vice Consul of the United States of America, in Mitsui Main Bank Building, Room 335, in Tokyo, Japan, under the authority of a certain stipulation for taking oral designations abroad, and upon order of the United States District Court, made and entered March 22, 1949, in the Matter of the United States of America vs. Iva Ikuko Toguri D'Aquino, pending in the Southern Division of the United States District Court, for the Northern District of California, and at issue between the United States of America vs. Iva Ikuko Toguri D'Aquino.

The plaintiff, appearing by Frank J. Hennessy, United States District Attorney; Thomas DeWolfe, Special Assistant to the Attorney General, and Noel Story, Special Assistant to the Attorney General, and the defendant, appearing by Wayne N. Collins and Theodore Tamba.

The said interrogations and answers to the witness thereto were taken stenographically by Mildred Matz and were then transcribed by her under my direction, and the said transcription being thereafter read over correctly to the said witness by me and then signed by said witness in my presence.

It is Stipulated that all objections of each of the parties hereto, including the objections to the form of the questions propounded to the witness and to the relevancy, materiality and competency thereof, and the defendant's objections to the use of the deposition, or any part of the deposition, by plaintiff, on the plaintiff's case in chief, shall be reserved to the time of trial in this cause.

TAMOTSU MURAYAMA

of Tokyo, Japan, employed by Nippon Times, of lawful age, being by me duly sworn, deposes and says:

Direct Examination

By Mr. Tamba:

Q. Mr. Murayama, what is your business or occupation?

A. Reporter for the Nippon Times.

Q. Where were you born?

A. I was born on December 24, 1905, in Seattle, Washington.

Q. Have you lived in the United States?

A. Yes.

Q. For how long a period of time?

A. About twenty years altogether.

(Deposition of Tamotsu Murayama.)

Q. Where did you receive your education?

A. Most of it in San Francisco.

Q. What schools?

A. Lowell High School and Golden Gate College.

Q. And Golden Gate College is a YMCA night school in San Francisco? A. That's right.

Q. For how many years have you been a newspaper man?

A. About twenty years. This is my twenty-first year. [2*]

Q. Have you been in any foreign countries outside of the United States?

A. Yes. All over the world.

Q. Will you please tell us what countries you visited.

A. Canada, Mexico, Panama, Peru, Chile, Argentina, Uruguay, Brazil, Great Britain, that is, England, Germany, France, Soviet Russia, Italy, Egypt, Ceylon, China, Korea, Manchuria, that's about all.

Q. That was following your occupation as a newspaper man? A. Yes, sir.

Q. You came to Japan, when?

A. 1939 was the last time.

Q. In what capacity, Mr. Murayama?

A. To take up my work with Tokyo AP office.

Q. You mean Associated Press?

A. Associated Press, right.

* Page numbering appearing at top of page of original Reporter's Transcript.

(Deposition of Tamotsu Murayama.)

Q. You were caught in Japan during the war, is that correct? A. Right.

Q. In the United States, have you had occasion to interview any people of prominence, in your capacity as newspaper man? A. Yes.

Q. Who, may I ask?

A. I interviewed Presidents Roosevelt and Hoover, Vice-President Garner.

Q. Any labor leaders of note?

A. Many, including William Green, John Lewis.

Q. Were you ever active in any American political campaigns? A. I was.

Q. In any particular city?

A. In San Francisco.

Q. In what capacity?

A. I was one of the campaign managers for Mayor Rossi.

Q. Do you know a man by the name of Major Tsuneishi?

The Court: I would like to inquire what, if any, relation any of these questions and answers have to any issue in this case.

Mr. Collins: I do not know. That is the last of the questions apparently.

The Court: I hope it is. It has no place here. Proceed.

Q. Do you know a man by the name of Tsuneishi? A. Yes.

Q. Do you remember Major Tsuneishi at the Sanno Hotel in Tokyo? A. Yes.

(Deposition of Tamotsu Murayama.)

Q. What was the occasion?

A. It was an occasion to get propaganda material from American correspondents.

Q. Who was securing this propaganda material?

A. Major Tsuneishi.

Q. What happened at the Sanno Hotel on that occasion?

Mr. DeWolfe: I object to it as incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. The American correspondents were put in separately in each room and they were ordered to write some manuscript.)

Q. Who issued that order, if you know?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. Major Tsuneishi.)

Q. Were any Kempei-tai around those rooms, if you know. If you don't say so?

Mr. DeWolfe: I object to it as immaterial. It has nothing to do with Radio Tokyo.

The Court: Objection sustained.

(A. I don't know.)

Q. Did you see Major Tsuneishi slap any correspondent? [3]

Mr. DeWolfe: Objected to as immaterial and incompetent.

The Court: Objection sustained.

(A. He threatened Joe Dynan, now AP correspondent in Paris.)

(Deposition of Tamotsu Murayama.)

Q. What did the threat consist of?

Mr. DeWolfe: Objected to as immaterial.

The Court: Same ruling.

(A. He was told to write an article but he refused so sternly, so Tsuneishi slapped him. He later complained he lost his tooth.)

Q. Who, when you say, he lost his tooth?

Mr. DeWolfe: Object to it as incompetent.

The Court: Objection sustained.

(A. Mr. Dynan.)

Q. Did you see Tsuneishi strike Dynan?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. I was standing at the end of the hall and I saw him.)

Q. Was Tsuneishi dressed in uniform on that occasion? A. Civilian clothes.

Q. Now, when the war broke out you were working for the Associated Press office in Tokyo?

A. Yes.

Q. What did you next do in your occupation?

A. I was arrested for espionage suspect.

Q. How long were you held at that time?

A. I was released immediately with the condition that I couldn't go out of Tokyo without official permission of Kempei-tai and metropolitan police force.

Q. What occupation did you follow for your livelihood at that time?

A. Mr. Sellmyer of Transocean News Agency,

(Deposition of Tamotsu Murayama.)

which was the German news agency, gave me a job.

Q. Had the Associated Press office closed?

A. Yes, that is right.

Q. How long did you work for that news agency, if you remember, approximately?

A. Until I became sick in 1943, that is, in the fall of 1943.

Q. Anything unusual happen to you when you were working at the [4] Transocean agency?

A. There was the Midway fiasco. A Kempei-tai captain invited me for tea, and as I walked out I was requested to step in a car and then driven down to Kempei-tai headquarters.

Q. What happened at the Kempei-tai headquarters when you got there?

Mr. De Wolfe: Objected to as immaterial and incompetent. It has nothing to do with the radio station whatsoever.

The Court: Objection sustained.

(A. The moment I walked into Otani's room he came up: "You are a spy. All Niseis are spy. You tip off some naval activities to America." Then he strike me down there.)

Q. How long were you in Otani's office?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. I'm kept there one whole day.)

Q. Were you officially released by them? By the Kempei-tai?

Mr. DeWolfe: Same objection.

(Deposition of Tamotsu Murayama.)

The Court: Objection sustained.

(A. Yes, with condition that I would not say anything about Midway.)

Q. Now, eventually you became connected with Camp Bunka? A. Yes.

Q. When, approximately?

A. Probably in December, 1943.

Q. Incidentally, were the Niseis having a hard time of it to exist in Japan during the war?

Mr. DeWolfe: I object to it as incompetent and immaterial and calling for a conclusion; too general.

The Court: Objection sustained.

(A. Yes, sir.)

Q. Did you assist other Nisei when it came to living?

Mr. DeWolfe: I object to it as immaterial and incompetent.

The Court: Objection sustained.

(A. I helped two Nisei boys and one Nisei stranded family until I became sick.)

Q. In what capacity did you report to Camp Bunka? A. As an interpreter. [5]

Q. Who was in charge of that camp, if you know?

A. Mr. Fujimura was the civilian figurehead and Mr. Tsuneishi was the executive officer.

Q. But who had the say in what was done?

A. Major Tsuneishi.

(Deposition of Tamotsu Murayama.)

Q. Incidentally, that was not called Camp Bunka at the time?

A. It was known as Surugadai Gijitsu Kenkyosho.

Q. What is the American translation of that word.

A. Surugadai, technically Institute for Research; Kenkyosho means to do some research work.

Q. Were there any prisoners of war at that institute? A. Twenty-four or five.

Q. What were those prisoners of war doing, if you know?

Mr. DeWolfe: I object to that as immaterial and incompetent.

The Court: Objection sustained.

(A. They were brought in to engage in Japanese army war progaganda.)

Q. Did these prisoners of war voluntarily do that work, if you know?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. No.)

Q. Why do you say that, Mr. Murayama?

Mr. DeWolfe: I object to that as incompetent.

The Court: Same ruling.

(A. First they were picked out by the Imperial Headquarters out of a prisoner of war list and they were brought in for this particular purpose.)

Q. What did these lists consist of, out of which prisoners of war were chosen?

(Deposition of Tamotsu Murayama.)

Mr. DeWolfe: I object to it as immaterial.

The Court: Objection sustained.

(A. Names, rank, talents, education, family members, and POW number.)

Q. Did you make any protest at the camp regarding the use of POWs for broadcasting purposes? [6]

Mr. DeWolfe: Same objection, if the Court please.

The Court: Objection sustained.

(A. I told Mr. Fujimura, civilian head of the POW camp I thought that this kind of radio broadcast by POW is nonsense.)

Q. What, if anything, did Mr. Fujimura do to stop it?

Mr. DeWolfe: Objected to as irrelevant and incompetent.

The Court: Objection sustained.

(A. And he agreed with me; then I submitted a copy of the international law regarding the treatment of POWs——)

Q. To whom did you submit that?

Mr. DeWolfe: Same objection, Your Honor.

The Court: Objection sustained.

(A. I submitted it to Mr. Fujimura.)

Q. Was that law ever called to Major Tsuneishi's attention, if you know?

Mr. DeWolfe: I object to it as incompetent.

The Court: Objection sustained.

(Deposition of Tamotsu Murayama.)

(A. I think Mr. Fujimura did but Major Tsuneishi didn't pay any attention, I believe.)

Q. Do you remember an occasion on December 10, 1943, when Major Tsuneishi spoke with the POWs through an interpreter? A. Yes.

Q. Tell us what was done?

Mr. DeWolfe: I object to that as incompetent, irrelevant and immaterial, having nothing to do with the issues.

The Court: Objection sustained.

(A. Major Tsuneishi said, in substance, "You are ordered to cooperate with the Japanese army to broadcast. If you fail to cooperate your life is not guaranteed.")

Q. On that occasion did he ask any of the POWs to step forward?

Mr. DeWolfe: Same objection, Your Honor.

The Court: Objection sustained.

(A. He then said: "If you refuse to cooperate, step forward.") [7]

Q. Did any prisoner of war step forward?

Mr. DeWolfe: Same objection, incompetent and irrelevant.

The Court: Same ruling.

(A. One POW by the name of Williams, British POW, stepped forward. I think he stepped two paces forward.)

Q. You were then in the courtyard when that happened?

Mr. DeWolfe: Same objection.

(Deposition of Tamotsu Murayama.)

The Court: Objection sustained.

(A. I was there.)

Q. Who interpreted Mr. Tsuneishi's speech?

Mr. DeWolfe: Same objection.

The Court: Objection sustained.

(A. Mr. Uno.)

Q. What happened to Williams?

Mr. DeWolfe: I object to that as incompetent and irrelevant. The same matter has been gone over before and sustained.

The Court: Objection sustained.

(A. Williams was taken over to the administration building. Then Tsuneishi said: "He must be killed" in the presence of Mr. Fujimura and I, myself.)

Q. And he was removed from the camp, is that correct?

Mr. DeWolfe: Same objection.

The Court: Objection sustained.

(A. That's right.)

Q. Were the prisoners of war led to believe that Williams was executed?

Mr. DeWolfe: Objected to as irrelevant and incompetent.

The Court: Objection sustained.

(A. When he was removed from the group, POW group, the boys were trembling with fear. No one could speak a word. Then they were given the impression by the time he was removed over to

(Deposition of Tamotsu Murayama.)

the administration building—they thought he was going to be executed.)

Q. Mr. Murayama, do you know an Australian Major by the name of Charles Cousens?

A. Very well. [8]

Q. When did you first see or meet Charles Cousens regardless of date? I am talking about the occasion.

A. December, 1943.

Q. Where? At Bunka camp?

A. No, around Radio Tokyo.

Q. Under what circumstances did you meet him?

A. I was at the radio station, Radio Tokyo. Then I met him in one of the rooms of Radio Tokyo. We had a meeting. I believe I saw him before that. I don't recall the exact date.

Q. What happened in that room, if you know?

A. He was ordered to write some manuscript.

Q. Did you hear the order, or did you come in after the order was given?

A. I came in after the order was given.

Q. Did Major Cousens appear to be frightened, if you know?

Mr. DeWolfe: I object to that as calling for the conclusion.

The Court: Objection sustained.

Mr. Collins: This is right within the time he was on the Zero Hour, if your Honor please.

The Court: It calls for the opinion and conclusion of the witness. Develop the facts.

(A. Very much.)

(Deposition of Tamotsu Murayama.)

Q. Describe his appearance.

A. He looked so pale with anger.

Q. Was he trembling, if you recall?

A. That I don't recall.

Q. Incidentally, another prisoner of war was removed from Camp Bunka some time later?

Mr. DeWolfe: Object to that, irrelevant, incompetent.

The Court: Objection sustained.

(A. Yes.)

Q. And you were not there when he was removed? [9]

Mr. DeWolfe: Same objection, sir.

The Court: Objection sustained.

(A. No. I was not there.)

Q. Did you arrive shortly after his removal?

Mr. DeWolfe: Objected to as immaterial.

The Court: Objection sustained.

(A. I went there on the following morning.)

Q. Who gave you the first information that Kalbfleisch had been removed from the prisoner of war camp?

Mr. DeWolfe: Object, incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. Several POWs gathered around me with fearing looks on their faces, speaking in low voices: "Kalbfleisch was taken away last night." Wait a minute, I don't know, "last night" or "yesterday.")

(Deposition of Tamotsu Murayama.)

“We are afraid he might be killed. Please try whatever you can do.”)

Q. What did you do then?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. I inquired of Uno if he could find out where Kalbfleisch was taken. Then I learned he was taken over to Shinagawa POW camp. He is charged with disobedience, and every POW must be taught some lesson. He might be executed.)

Q. Then what did you do?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. I went to Prince Ri, Korean Prince, a Lieutenant-General, Member of the Military Counsel. I explained to him what happened so far and I also explained the international law how POW should be treated. Then he promised me he was going to do whatever he can do.)

Q. Did you discuss with him the subject of compelling prisoners of war to write script and to broadcast?

Mr. DeWolfe: Object to that as incompetent, irrelevant.

The Court: The same objection will have to be sustained.

(A. I explained to him about the radio propaganda imposed upon [10] POWs. I told him such kind of writing and radio broadcast is a joke. Then

(Deposition of Tamotsu Murayama.)

he said: "It is in the hands of Lt. Gen. Arisue."

He said: "He could interfere.")

Q. Was Major Tsuneishi directly responsible to Gen. Arisue?

Mr. DeWolfe: Object to that, incompetent, irrelevant, immaterial.

The Court: Objection sustained.

(A. POW propaganda program was introduced by Major Tsuneishi and General Arisue.)

Q. In other words, Arisue was Tsuneishi's direct superior?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. That's right.)

Q. And the prisoners of war thought Kalbfleisch was executed?

Mr. DeWolfe: Objected to as incompetent, irrelevant.

The Court: Objection sustained.

(A. They continually believed Kalbfleisch was executed.)

Q. Mr. Murayama, I show you a letter dated August 12, 1947, signed by Edwin Kalbfleisch, Jr. This is a copy of a letter which you handed to me, and I ask you where did that copy come from?

Mr. DeWolfe: Objected to as incompetent, irrelevant, and immaterial.

Mr. Collins: The materiality will have to appear from the letter itself, if your Honor please.

The Court: A letter?

(Deposition of Tamotsu Murayama.)

Mr. Collins: It is a letter, yes, that was to be identified. It is introduced in evidence subsequently in the deposition.

The Court: I will allow it; I will give you a record on it.

Mr. Tamba: Do you want me to read the answer.

The Court: Read the answer.

(A. This letter came from Captain Edwin Kalbfleisch to Prince Ri after he found out he was rescued without having been court martialed.)

The Court: Just a minute. Let that question and answer go out, let the jury disregard it for any purpose in this case. [11]

Q. You got that copy from Prince Ri?

Mr. DeWolfe: Objected to as incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. Yes.)

Mr. Tamba: "I offer this letter in evidence as defendant's exhibit '1' in Murayama deposition."

Mr. DeWolfe: Objected to as incompetent, irrelevant, immaterial, not the best evidence, Kalbfleisch should appear as a witness in connection—

Mr. Collins: May I read something else? Mr. Storey, who was the attorney for the prosecution, answered to the offer, "No objection."

The Court: The objection will be sustained. Regardless of what objection was made there or whatever may have happened there, the test under the law is here that the court must rule whether this

(Deposition of Tamotsu Murayama.)

testimony is admissible to go to the jury, and the court is not bound by any matter that might have taken place in relation to this deposition. The real purpose of it is to present it here to the court, and the same rule of evidence applies as though they appeared here in court.

Mr. Collins: I am not quarreling, if your Honor please, with that.

The Court: I wanted you to know my position, so that it would be clear.

Mr. Collins: Yes. I merely point out that we are in this situation, that counsel for the prosecution then present at the taking of the deposition raised no objection whatsoever and so stated, to the introduction of that letter into evidence upon the offer by Mr. Tamba.

The Court: I am not bound by what the prosecution may or may not have done at that time and place. [12]

Mr. Collins: I understand that, your Honor, but your Honor is now making a ruling upon a present objection.

Mr. DeWolfe: I have one statement to make on that, if your Honor wants to hear me. The record in this case shows clearly, and the understanding was unequivocal and clear, entered into in writing between Mr. Collins, myself and Mr. Hennessey, that all objections would be reserved to the time of trial, and it was stated at the outset of each and

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every one of these depositions. There is no question about that, sir.

Mr. Collins: I realize what the stipulation was and what the Court was entered into. The only question that then arises is that here, nevertheless, despite the stipulation, Mr. Storey as counsel for the prosecution consents to its introduction in evidence.

The Court: Well, the fact that he did, this court is not bound by that.

Mr. Collins: Well, I am not trying to bind the court by it, I am simply saying that we are caught in this position.

The Court: I just want to clear it up so if I am in error you have an opportunity to correct me and so that you will have a record on it.

Mr. Collins: I would just like the record to show that, despite the fact Mr. Storey consented to its introduction in evidence, the prosecution attorneys now voice an objection to it, and your Honor is ruling upon that objection.

The Court: The objection will be sustained.

Mr. Collins: And on line 17, is that correct, Mr. Tamba?

Mr. Tamba: Yes.

Q. Did you hear repeated threats made to prisoners of war at Camp Bunka, that if they failed to cooperate, their lives would not be guaranteed?

Mr. DeWolfe: Objected to as incompetent, irrelevant.

The Court: Objection sustained.

(Deposition of Tamotsu Murayama.)

(A. Yes.) [13]

Q. Who made those threats?

Mr. DeWolfe: Object to that as incompetent, irrelevant, immaterial.

The Court: The objection will be sustained.

(A. Major Tsuneishi told prisoners of war in prisoners of war quarters, through Buddy Uno, as his interpreter.)

Q. Who was Ikeda? Did a man by the name of Ikeda work at Camp Bunka?

Mr. DeWolfe: Go ahead.

A. Yes.

Q. Did you ever hear him tell the prisoners of war the same thing? A. Yes.

Mr. DeWolfe: Objected to as incompetent, irrelevant.

The Court: Objection sustained.

Q. Let me ask you, what was the food condition at Camp Bunka like, Mr. Muriyama?

Mr. DeWolfe: Objected to as not connected with the issues of the case.

Mr. Collins: That relates directly to the question, if your Honor please, why the defendant gave food to the prisoners of war at Bunka.

The Court: Objection sustained.

(A. Food condition was terrible. That is, kao-liang, that is a Manchurian product, and soya beans were mixed in the rice and the shortage of salt, vegetables, and other vital foods was so acute, and there was continuous sickness such as beri-beri, skin

(Deposition of Tamotsu Murayama.)

eruption, falling of hair. Those boys continually complained to me so I took up the matter with the civilian head, Mr. Fujimura, and finally I took it over to Prince Ri and asked him to improve the POW camp somehow, otherwise there would be continuous sickness.)

Q. After your complaint to Prince Ri were conditions improved somehow regarding food?

Mr. DeWolfe: Same objection, your Honor.

The Court: Same ruling. [14]

(A. I brought some food myself; brought in some medicine and Mr. Fujimura and other civilians tried to improve as much as we could, nevertheless there was not much improvement, to my regret.)

Q. How about Red Cross packages? Were they delivered to the prisoners of war?

Mr. DeWolfe: Objected to as incompetent, irrelevant.

The Court: Objection sustained.

(A. I believe it was in 1944, early part of 1944, Henshaw, approached me and explained that there must be some Red Cross packages for the Allied prisoners and if there is not they wanted me to make a contact with the Swiss Diplomatic representative in Tokyo.)

Q. Did you discuss that matter with Tsuneishi or anybody?

Mr. DeWolfe: Same objection, if it please the Court.

The Court: Objection sustained.

(Deposition of Tamotsu Murayama.)

(A. I asked Mr. Fujimura to take up the matter immediately with Major Tsuneishi. Then some Red Cross packages came to 'Bunka Camp later.)

Q. Who brought them, do you know?

Mr. DeWolfe: Objected to as irrelevant.

The Court: Objection sustained.

(A. I think they were brought by Uno and Ikeda.)

Q. Did you do anything to afford the prisoners of war hospital treatment?

Mr. DeWolfe: Objected to as incompetent, irrelevant.

The Court: Objection sustained.

(A. Just a moment. In connection with the Red Cross packages I would like to explain a little more. They were brought over to Camp Bunka but they were kept as a prize for the men accomplishing the most work, instead of immediate distribution, whereby I severely protested for this kind of practice. I said: "These Red Cross packages belong to the prisoners of war inasmuch as sent by the Red Cross, and these packages should be delivered immediately.")

Q. Was Camp Bunka a secret POW camp?

Mr. DeWolfe: Objected to as incompetent, immaterial. [15]

The Court: Objection sustained.

(A. More or less.)

Q. Did anyone approach you and ask you to see the Swiss Consul to see if conditions could be improved?

(Deposition of Tamotsu Murayama.)

Mr. DeWolfe: Objected to as incompetent, irrelevant, immaterial.

The Court: Objection sustained.

(A. Yes, I believe it was Major Cousens mentioned about the Swiss Consul.)

Q. Did you see the Swiss Consul?

Mr. DeWolfe: Same objection, if it please the court.

The Court: Same ruling.

(A. I didn't but I took the matter up with Mr. Fujimura and I also mentioned it to Prince Ri.)

Q. Did the Swiss Consul ever investigate the camp?

Mr. DeWolfe: Objected to as immaterial, incompetent.

The Court: Objection sustained.

(A. I believe the Swiss Consul visited the camps but not Camp Bunka.)

Q. Incidentally, were your activities restricted during this time?

Mr. DeWolfe: Objected to, that is not germane to the issues, incompetent.

The Court: Objection sustained.

(A. I was under constant watch by Kempei-tai and police.)

Q. Were you able to go to see Prince Ri any time you wished or did you have to sneak out?

Mr. DeWolfe: Object to that as incompetent, immaterial.

The Court: Objection sustained.

(Deposition of Tamotsu Murayama.)

(A. More or less I have to go there secretly.)

Q. Did any of the prisoners of war protest as to the type of script they were writing, do you know?

Mr. DeWolfe: Object to that as immaterial, too general, incompetent.

The Court: Objection sustained.

(A. They continually complained that they did not want to write any [16] such war progaganda manuscript as assigned to them by Uno.)

Q. Were these protests made in writing to you?

Mr. DeWolfe: Same objection, if it please the Court.

The Court: Same ruling.

(A. Yes, there were many times secretly handed to me. They were afraid to speak to me directly.)

Q. What did you do with them?

Mr. DeWolfe: Same objection, your Honor.

The Court: Same ruling.

(A. Some of them I told to Mr. Fujimura and Mr. Matsui.)

Q. Oh, incidentally, Mr. Murayama, did you ever see anyone slap Major Cousens?

Mr. DeWolfe: Object to that as incompetent, irrelevant, and immaterial.

The Court: Objection sustained.

(A. I did.)

Q. When and where?

Mr. DeWolfe: Object to that as incompetent, irrelevant.

(Deposition of Tamotsu Murayama.)

Mr. Collins: The answer is directed to what occurred actually at Radio Tokyo, if your Honor please.

The Court: With that understanding I will allow it. If it doesn't, I will instruct the jury to disregard it.

A. I do not recall the exact date, but it was at Radio Tokyo.

Q. Who slapped him?

A. Mr. Uno was arguing somewhat with Major Cousens, then Uno slapped him. I left the room immediately, as I was standing way back in the room.

Q. Mr. Muriyama, you were very friendly to the prisoners of war, is that correct?

A. I tried to help them as much as I could.

Q. And they took you into their confidence from time to time, is that not correct.

A. I think they did.

Q. Will you tell us the circumstances under which you became very friendly with the prisoners of war? [17]

Mr. DeWolfe: I object to that as incompetent, irrelevant, immaterial .

The Court: Objection sustained.

(A. There were many instances. Once Major Cox was suffering with malaria fever. I took him to a hospital without official permission as he was suffering so much. I took other POWs to a hospital in order to relieve their suffering.)

(Deposition of Tamotsu Murayama.)

Q. Were you reprimanded for doing that without official orders?

Mr. DeWolfe: I object to that as incompetent, immaterial.

The Court: Objection sustained.

(A. Yes.)

Q. By whom, sir, if you recall?

Mr. DeWolfe: Same objection, if the court please.

The Court: Same ruling.

(A. Mr. Uno did not like me. Didn't want me, and I finally was ordered not to speak to them without the presence of other Japanese civilian members.)

Q. Did you ever talk with either Capt. Ince or Major Cousens about radio station JOAK?

Mr. DeWolfe: Go ahead.

A. Many times.

Q. What were their remarks about radio station JOAK?

Mr. DeWolfe: Objected to as hearsay, incompetent, irrelevant, immaterial.

Mr. Collins: This goes directly to the Zero Hour program, if your Honor please.

The Court: In what manner does it go directly to it?

Mr. Collins: Well, they were on the Zero Hour program at that time.

The Court: Do those questions and answers indicate it?

(Deposition of Tamotsu Murayama.)

Mr. DeWolfe: It says "Radio Tokyo," sir.

Mr. Collins: It says "Radio Tokyo."

The Court: Is the time fixed?

Mr. Collins: It is related to either Captain Ince—— [18]

The Court: If there is any question about it, I will allow it.

Mr. DeWolfe: May I point out, it was hearsay; Captain Ince——

The Court: Read the question again so it will clear it up.

Mr. Tamba: "What were the remarks about radio station JOAK?"

The Court: Read it counsel, so it will be clear.

Mr. Collins: "What were their remarks about radio station JOAK?"

Mr. DeWolfe: Objected to as hearsay, incompetent, irrelevant and immaterial.

The Court: Assuming that they did make a remark, it is hearsay, isn't it.

Mr. Collins: No, I don't think it is.

The Court: And self-serving?

Mr. Collins: No, I don't think it is self-serving at all. This is with very particular regard to the Zero Hour itself.

The Court: Assuming it was, even,——

Mr. DeWolfe: Hearsay to us, sir.

The Court: It doesn't take it out of the hearsay rule.

Mr. Collins: It is an expression about the very

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program itself by the persons who were conducting the program, who were on that program at a time that the defendant is actually on that program, and the statement is made to a Japanese who is in charge, at least had something to do with, two of the prisoners of war who were on that program, Muriyama had something to do with it; Muriyama had something to do with it.

The Court: However, at this time I will allow him to answer, so we will go along here and dispose of this matter.

A. They said, "Radio Tokyo is a scientific toy for the Japanese, and everything is a joke, and this program assigned to us is simply the bunk." [19]

Mr. DeWolfe: Move that that go out. They should not be allowed under legal rules of evidence to bolster up their evidence given on the witness stand by oral statement brought to the attention of the court and jury by another witness, depriving the United States of the right of confrontation; and the statements are made to them by other persons. The government's position is that it is hearsay and it should go out.

The Court: Let the answer go out and let the jury disregard it for any purpose of this case.

Q. In your opinion was it the bunk?

Mr. DeWolfe: Object to that as calling for the conclusion.

The Court: Objection sustained.

(A. It was more than a joke.)

(Deposition of Tamotsu Murayama.)

Q. Did you ever hear the prisoners of war broadcast weather reports on the radio?

Mr. DeWolfe: Object to that as incompetent, irrelevant, immaterial.

Mr. Collins: This is related to what——

The Court: Objection sustained.

Mr. Collins: ——transpired, apparently, on the Zero Hour program, with regard to Captain Ince and Major Cousens.

Mr. DeWolfe: The answers don't show anything about the Zero Hour on this deposition. I am following it down the page. If it did relate to the Zero Hour, I wouldn't object to it, but there is no showing it does, sir. There are other prisoner of war programs.

Mr. Collins: It doesn't relate to other programs, it relates to this particular program on which Captain Ince and Major Cousens were.

The Court: Read it.

Q. Did you ever hear the prisoners of war broadcast weather reports on the radio.

The Court: Objection sustained. [20]

(A. Yes.)

Q. In what way did they broadcast weather reports?

Mr. DeWolfe: Same objection.

The Court: This is the first time weather has come into these radio broadcasts, is it? Or is it?

Mr. Collins: What is that Your Honor?

(Deposition of Tamotsu Murayama.)

The Court: Is this the first time weather reports have come into it?

Mr. DeWolfe: Yes, sir.

Mr. Collins: Well, I can't say that. There is a question there. I think it is in the script, as a matter of fact. It is in there, or there is some testimony concerning what the prisoners of war were able to get in the radio script that was broadcast, and the only form in which they could obtain it. I recall there is some evidence of that.

The Court: Well, let's take it a step further. Regardless of that, what place has it in this record?

Mr. Collins: It has this much, if your Honor please, that if they were trying to put out information of benefit to the Allies, that is something which has a direct, material bearing.

The Court: Read the question again.

Q. Did you ever hear the prisoners of war broadcast weather reports on the radio?

The Court: Too general; I will sustain the objection.

(A. Yes.)

Q. In what way did they broadcast weather reports?

Mr. DeWolfe: Same objection, sir.

The Court: I will allow it. Find out what it was.

A. At the beginning of some radio programs the voice would say, "Here is another radio program from Tokyo. It is a beautiful day, it is a fine day, isn't it?" I considered it, myself, a weather broadcast.

(Deposition of Tamotsu Murayama.)

Mr. DeWolfe: Move it go out, your Honor.

The Court: I don't think it has any place in this record. However, I will let it stand, if anybody gets any comfort out of it. [21]

Q. Mr. Murayama, I hand you a document which bears no date and ask you what this, if you know?

A. This is a letter given to me by the P.O.W.s when my baby was almost dying.

Q. Is that signed by the prisoners of war in the camp? A. Yes.

Mr. DeWolfe: Object to that as immaterial, incompetent, having no bearing on the issues here.

The Court: Objection sustained.

Q. How many names on it?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. Eighteen names.)

Mr. Collins: "Mr. Tamba: I offer that as defendant's exhibit 2 in Murayama deposition."

May I ask you Mr. Tamba, is that exhibit 2 attached to the deposition?

Mr. Tamba: Here (indicating).

Mr. DeWolfe: Are you offering it now?

Mr. Collins: Did you see this?

Mr. DeWolfe: No. I object to it—are you offering it?

Mr. Collins: Yes, we are offering it.

Mr. DeWolfe: Object to it as incompetent, irrelevant, immaterial.

The Court: What is it?

(Deposition of Tamotsu Murayama.)

Mr. Collins: It is a letter addressed to Mr. Murayama, "Dear Mr. Murayama:" and it is signed by some 18 prisoners of war.

Mr. DeWolfe: It is a note of consolation about the child. It is a letter of consolation about the sickness of the child.

The Court: Well, that has no place here, I will sustain the objection to it.

Mr. Collins: Is that letter dated? Will you see if it bears a date there, Mr. Tamba? [22]

Mr. Tamba: I don't see any, Mr. Collins.

Mr. Collins: Yes. Do you know the page, Mr. Tamba? We are on page 14, line 20.

Mr. Tamba: Yes, I have it.

Q. Do you know a person by the name of Ken Oki?
A. Yes.

Q. How many years have you known Mr. Oki?

A. Since Sacramento days.

Q. What kind of fellow is he for telling the truth?

Mr. DeWolfe: Object to that as incompetent and not a proper method of impeachment.

The Court: Objection sustained.

(A. He is a very flexible man.)

Q. In other words, he will say anything the occasion justified, is that correct?

Mr. DeWolfe: I object to that as being incompetent, irrelevant, immaterial, leading, not proper questioning.

The Court: Objection sustained.

(Deposition of Tamotsu Murayama.)

(A. More or less.)

Q. You were accused by the heads of Bunka Camp of being too friendly with the prisoners of war?

Mr. DeWolfe: That has no bearing here, nothing germane, incompetent.

The Court: Objection sustained.

(A. I was warned many times that I was too friendly with these boys so they did not guarantee——)

Q. What did they do about you finally?

Mr. DeWolfe: I object to that as incompetent.

The Court: Objection sustained.

(A. I was kicked out.)

Q. Where did you go from Bunka?

Mr. DeWolfe: Go ahead.

A. I went to Radio Tokyo.

Q. When you were kicked out from Bunka Camp did you have occasion to see the prisoners of war again? [23]

Mr. DeWolfe: Go ahead.

A. They wanted me to come down to the broadcast so I went down there many times.

Q. And, incidentally, you were finally drafted in the Japanese Army? A. I was.

Q. When was that, Mr. Murayama?

A. June 23, 1945, I got drafted.

Q. To what work were you assigned?

A. Constructing roads.

Q. Where? A. In Nagano Prefecture.

(Deposition of Tamotsu Murayama.)

Q. And you were in the army for how long?

A. Until the termination of war.

Q. Did you volunteer. A. No, I didn't.

Q. Have you ever voted in a Japanese election? A. I did not.

Q. Have you ever held a government office in Japan? A. No.

Q. Mr. Murayama, do you recall a conversation with Major Cousens in which he indicated he wished to commit suicide?

Mr. DeWolfe: Object to that as incompetent, irrelevant, immaterial, hearsay.

The Court: Sustained.

Mr. Collins: It is preliminary, if your Honor please.

The Court: The court has ruled; the objection is sustained.

(A. Yes.)

Q. Tell us the substance of that conversation?

Mr. DeWolfe: Same objection, sir.

The Court: Same ruling.

(A. I took Major Cousens and Capt. Ince home with me, to my home, and I heard their sufferings and complaints. Then, later, when I met him at Radio Tokyo, he said: "I want to commit suicide. I cannot stand this kind of humiliation any longer." He secretly told me, asked me, if I can obtain a pistol, and I said: "Absolutely not—I cannot." [24])

(Deposition of Tamotsu Murayama.)

Q. Did he tell you how many bullets he wanted you to get?

Mr. DeWolfe: Same objection.

The Court: Objection sustained.

(A. "Just one bullet is enough to end my life." I said: "Keep your chin up. Soon the day may come, soon.")

Q. Incidentally, when you talked with the prisoners of war in Radio Tokyo, after your connection with Bunka Camp had been severed, you continually told them that the war would soon be over?

Mr. DeWolfe: Object to that as too general, incompetent, irrelevant, immaterial.

The Court: Objection sustained.

(A. I told them latest developments of the war situation from time to time. I gave them some short wave news to encourage them to keep up their vitality.)

Q. Mr. Murayama, were the prisoners of war also led to believe that Matsui had also been executed?

Mr. DeWolfe: Objected to as calling for a conclusion, incompetent, irrelevant, immaterial.

The Court: Objection sustained.

(A. P.O.W. boys continually asked me why Mr. Matsui failed to come to see them.)

Q. Were you ever called vile names by Tsuneishi and Uno and other Japanese civilians in Camp Bunka?

(Deposition of Tamotsu Murayama.)

Mr. DeWolfe: Object to that as too general, incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. Names?)

Q. Vile names, did they ever swear at you?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. "Hishikari." He didn't want me to talk to the P.O.W.s.)

Q. What did he call you, bad names?

Mr. DeWolfe: Same objection, if the court please.

The Court: Objection sustained.

(A. He said he was going to remove me from the camp. Rather he was going to ask Tsuneishi to have me removed from the camp.)

Q. Oh, incidentally, referring to this defendant's exhibit 2 which I offered in evidence, I see directly to the left of the words "Yours very sincerely," two marks in a reddish color. What were those marks?

Mr. DeWolfe: Objected to because the letter didn't go in.

The Court: Objection sustained.

Mr. Collins: Is that the letter we just looked at, Mr. Tamba?

Mr. Tamba: Yes.

(A. They were the Japanese "han" or seal. One is for Mr. Uno, the other is for Ozeki. These passed censors, this letter sent to me.)

(Deposition of Tamotsu Murayama.)

Q. Did you ever tell Tsuneishi personally that the prisoners of war complained about conditions and their work at Camp Bunka, did you?

Mr. DeWolfe: I object to that as immaterial and incompetent.

The Court: Objection sustained.

(A. I told him once or twice.)

Q. What did he say to you?

Mr. DeWolfe: Objected to as incompetent, hearsay.

The Court: Objection sustained.

(A. I mentioned about the international law and he commented: "We can ignore that.")

Q. Did you ever know or see a person known as Iva D'Aquino, also known as Iva Toguri?

A. Yes.

Q. Do you know whether that person knows you?

A. I think she just knows me by sight or name.

Q. Where did you see that person?

A. I saw her at the studio, Radio Tokyo.

Q. Did you ever see her broadcast or hear her?

A. Yes, introducing their program.

Q. What was she doing? What kind of an introduction was she making? [26]

A. When I saw her she was reading for the first part of the Zero Hour manuscript for the introduction of music.

Q. What kind of music was she introducing?

A. Probably jazz music.

(Deposition of Tamotsu Murayama.)

Q. Do you recall? A. Yes.

Q. Did you ever see her in a room with Cousins?
A. No, I didn't.

Q. At the radio station where script was being prepared?

A. No, I didn't see her with Major Cousins but Major Cousins told me he is working up a certain program and he gives me some scripts to read.

Q. Did he say anything about his commentaries being continuous?

A. He said he is building up commentary one after another for certain purposes.

Q. And what did you say to Cousins?

A. "Well, since you are imposed to do that work, do whatever you want."

Q. Oh, when Mr. Tsuneishi used to appear at Camp Bunka was he always wearing a little saber?

Mr. DeWolfe: Objected to as incompetent, irrelevant.

The Court: Objection sustained.

(A. Not saber. Japanese sword.)

Q. How long is that sword?

Mr. DeWolfe: Same objection, if it please the court.

The Court: Same ruling.

(A. I don't know the exact measurements, but three feet or less, something like that.)

Q. Was it customary for Japanese officers who were doing desk work to wear swords?

(Deposition of Tamotsu Murayama.)

Mr. DeWolfe: Object to as too general, incompetent.

The Court: Objection sustained.

(A. Not at their desks. They are supposed to remove the sword as soon as they enter the room.)

Q. Did the prisoners of war have swords or guns so they could protect themselves at Camp Bunka?

Mr. DeWolfe: Same objection, sir.

The Court: Same ruling.

(A. They were completely helpless, mentally and physically.)

Q. At the beginning of Camp Bunka was the script prepared by prisoners of war or someone else, if you know?

Mr. DeWolfe: Objected to as irrelevant.

The Court: Objection sustained.

(A. At the early part of the P.O.W. broadcast manuscripts were prepared by Imperial headquarters.)

Q. At the early part of the P.O.W. broadcast manuscripts were prepared by Imperial——

Mr. DeWolfe: That is the answer.

Mr. Collins: I beg your pardon.

Mr. Tamba: Line 18 is the next question, Mr. Collins.

Q. And given to the prisoners of war to broadcast?

Mr. DeWolfe: Same objection, sir.

The Court: Same ruling.

(A. That's right.)

(Deposition of Tamotsu Murayama.)

Q. Incidentally, was there a Lt. Hamamoto at Camp Bunka? A. Yes.

Q. Was he also carrying a sword at all times?

A. Always.

Mr. DeWolfe: Objected to as immaterial, move it go out.

The Court: The objection will be sustained; let it go out.

Q. Did Mr. Uno appear in uniform at Camp Bunka?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. Yes.)

Q. Was he likewise carrying a sword?

Mr. DeWolfe: Same objection, your Honor.

The Court: Objection sustained.

(A. Yes.) [28]

Q. At what time did the prisoners of war who were of the Catholic faith request a priest, do you know?

Mr. DeWolfe: Objected to as incompetent, irrelevant, immaterial, not germane to the issues here involved, wholly immaterial.

The Court: Objection sustained.

(A. Major Cousens approached me one day and he said: "There are many Catholic boys. They are suffering so much. I would like to help them somehow. Would you be kind enough to arrange a holy mass, confession, for these boys." Then I approached Archbishop Doi and he was so willing

(Deposition of Tamotsu Murayama.)

and happy to conduct a holy mass at the camp. Then I was forbidden to make such arrangements for these boys. It was one of the main reasons I was kicked out from the camp.)

Q. Who forbade you to make these arrangements?

Mr. DeWolfe: Same objection, Judge.

The Court: Same ruling. The objection will be sustained.

(A. Hishikari and Tsuneishi. So I bought blessed rosaries for all the Catholic boys before I left Camp Bunka. I explained to them that "I was very sorry I cannot help conduct holy mass for you but God bless you.")

Q. Mr. Murayama, prisoners of war in Camp Bunka write you now, do they not?

Mr. DeWolfe: Object to that as incompetent, irrelevant and immaterial.

The Court: Sustained.

(A. Yes, I still receive some letters from Henshaw and Capt. Kalbfleisch.)

Q. And Captain Kalbfleisch sends you gifts at Christmas, such as clothing?

Mr. DeWolfe: Objected to as immaterial.

The Court: Objection sustained.

(A. Yes, he is kind enough to send me all my needs.)

Q. Where—were there ever any girls who broadcast at Radio Tokyo, do you know, besides Miss Toguri? A. Yes, I know.

Q. Who were they, if you recall? [29]

(Deposition of Tamotsu Murayama.)

A. Ruth Hiakowa, Katherine Muroka, I forgot the other girls' first name, Fujiara, and June Suyama from British Columbia.

Q. Do you know of a single instance in Camp Bunka where any prisoners volunteered to write script or broadcast?

Mr. DeWolfe: I object to that as immaterial, not germane to the issues here, and—

The Court: The objection will be sustained.

(A. I am so familiar with the Bunka Camp condition but no one volunteered at any time. Continuously they complained to me of their physical and mental sufferings and I tried to prevent such nonsense; such war effort based upon international law, but I was helpless. I could not do anything for them. Some of them tried to please Uno and other persons at the camp but not from their bottom of heart. They really despised such broadcasts.)

Q. You had many confidential discussions with the prisoners of war?

Mr. DeWolfe: Same objection, if the court please.

The Court: Objection sustained.

(A. Yes, I had, many times.)

Q. And you would be in their rooms discussing it with them?

Mr. DeWolfe: Same objection, if it please the court.

The Court: Objection sustained.

(A. When Uno was not there.)

(Deposition of Tamotsu Murayama.)

Q. When Uno walked in, what happened?

Mr. DeWolfe: Object to it as immaterial.

The Court: Objection sustained.

(A. Everybody hushed up.)

Mr. Collins: Cross-examination.

Mr. DeWolfe: Waived, not offered.

Mr. Collins: The defendant offers the cross-examination. This is cross-examination by Mr. Storey.

(Whereupon the cross-examination was read, Mr. Collins reading the questions and Mr. Tamba the answers.) [30]

Q. Mr. Murayama, you returned from the United States to Japan in 1939?

A. The last time.

Q. You retained your American citizenship until you were drafted into the army?

A. I believe so.

Q. What date was that?

A. I got drafted in the army June 23, 1945.

Q. You considered yourself an American citizen until that time? A. Yes.

Q. What were your official duties at Camp Bunka?

Mr. DeWolfe: Objected to as immaterial.

The Court: Objection sustained.

(A. An interpreter.)

Q. Is that all you did, interpret there?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(Deposition of Tamotsu Murayama.)

(A. And, and, well, that's right, interpret.)

Q. In other words, you did not have anything to do unless some official wanted you to interpret? You didn't have anything else to do?

Mr. DeWolfe: Go ahead.

A. Well, I was given manuscript reading to do. I took down manuscripts to Radio Tokyo. That's part of my interpreter's job.

Q. Were you censoring these manuscripts?

A. I did not.

Q. Did you supervise the writing of these manuscripts?

A. Never, I never did. It was not my job at all.

Q. During the time you were at Camp Bunka, did you have any [31] official capacity with any other Japanese agency? A. No.

Q. That was the only job you occupied?

A. That's right.

Q. Did you have any official connection in any way with the Zero Hour program?

A. I had no official capacity with the Zero Hour.

Q. Approximately how many times did you observe the broadcast of the Zero Hour program?

A. I should say, many times, oh, I should say, fifteen or twenty times I dropped around the studio.

Q. That was over a period of how long?

A. It is a long time. I cannot say exactly how long. I heard the radio program when I was at the Bunka Camp. I went down there to hear it once

(Deposition of Tamotsu Murayama.)

in a while, and even after I went to Radio Tokyo I heard the program.

Q. You mentioned that there were several other girls working out at Radio Tokyo, how many of these girls participated in the Zero Hour program?

A. I know exactly, Ruth Hayakawa, Cathleen Muruka, Suyama, wait a minute. Other girls I mentioned a while ago were down the studio, but I cannot exactly say whether they participated or not. I know these girls read the manuscript.

Q. These girls you mentioned did they have regular parts on the Zero Hour each day it was broadcast?

A. I didn't see every day. I cannot say regular part each day.

Q. While you were observing the Zero Hour program did you see more than one girl participate in any Zero Hour program? A. Yes.

Q. Did you see Miss Toguri and some other girl participate at the same time and on the same program?

A. Maybe June Suyama was there. [32]

Q. Did these other girls have regular parts on the program or did they substitute for Miss Toguri from time to time?

A. No, they took parts.

Q. So they were regularly assigned and had regular parts on the Zero Hour program?

A. That's right.

(Deposition of Tamotsu Murayama.)

Q. How many girls did the Zero Hour have on one particular program?

A. I have no exact recollection.

Q. Was Miss Toguri, to your knowledge, forced to work on this Zero Hour?

A. I don't know. I cannot say because I never spoke to her.

Q. Did any Kempei Tai or policeman ever talk to you concerning Miss Toguri?

A. I don't know.

Q. You know whether they talked to you, or not.

A. Who?

Q. The Kempei Tai or the police? A. No.

Q. Did Miss Toguri seem to be pleased with her success as radio announcer?

A. I don't know but Major Cousens said: "I have a particular aim in this program in building up this Zero Hour program."

Q. That's your answer? A. Yes.

Q. What did Major Cousens mean by having a particular purpose in building this program up?

Mr. DeWolfe: Object to that as incompetent, calling for a conclusion.

The Court: Sustain the objection.

Mr. Collins: Your Honor sustained the objection?

The Court: Sustain the objection.

(A. I thought he meant to say a counter-espionage by building up some radio program. [33])

Q. Did you ever hear a Zero Hour program

(Deposition of Tamotsu Murayama.)

which had a double meaning or which you considered to be counter-espionage?

Mr. DeWolfe: Object to that as calling for a conclusion..

The Court: Objection sustained.

(A. I didn't pay any attention so I cannot say anything about it.)

Q. You did hear the Zero Hour program?

A. I just heard music, just part of it, and I didn't pay much attention.

Q. What was the purpose of the Zero Hour program?

A. It was aimed as Japanese army propaganda but it was in no way propaganda at all. As Cousens said, everything was a scientific toy and joke.

Q. The purpose of having the Zero Hour program from the Japanese standpoint was to broadcast propaganda?

A. Maybe the Japanese soldiers thought so but many laughed at the Zero Hour as nonsense.

Q. Who laughed at the Zero Hour program as nonsense?

Mr. DeWolfe: Object to that as calling for the opinion and conclusion, too general.

The Court: Objection sustained.

(A. Many boys and girls working at Radio Tokyo. Mostly Nisei.)

Q. Was the Zero Hour supposed to amuse and entertain the American troops?

A. I don't know.

(Deposition of Tamotsu Murayama.)

Q. Mr. Murayama, start right from the beginning of the Zero Hour programs, as you listened to it, and tell us everything that you remember about that particular program. Any program. What did it consist of?

A. Jazz, some dramatic part of it. I didn't pay much attention. I listened to jazz music, so I cannot——

Q. Then you would leave after you listened to the jazz? Then you would leave the studio?

A. That's right.

Q. That happened on all occasions when you were at the radio station listening to the Zero Hour?

A. I listened to some drama part of it but I have no recollection.

Q. Tell us about part of that drama. What was it about?

A. Now, I listened to many radio programs. It is many years ago and it is very difficult to recollect the exact type of radio drama. I remember a kind of lively atmosphere. That's about all.

Q. Is that all you can tell us about the Zero Hour? [34]

A. I didn't pay much attention.

Q. Did you ever see Miss Toguri at Camp Bunka while you were working there?

A. Never did. That is, I didn't stay always there.

Q. When would you usually see Miss Toguri around the radio station? What time of day?

(Deposition of Tamotsu Murayama.)

A. During evening. I saw her picking up radio manuscript just before the Zero Hour.

Q. What were your duties at the radio station? Why were you there?

A. News translator.

Q. While you were assigned to Camp Bunka what were you doing at Radio Tokyo?

A. I took down POW or escort boys to the radio station.

Q. Who were those boys?

A. (Witness examines defendant's exhibit "2" in his deposition.) Bucky Henshaw, Light, Newton, H. Provoo, McNaughton, Wisener, Ince, some others. It depended—

Q. What were those people doing at the radio station?

A. They broadcast as they were ordered to.

Q. What were they broadcasting?

Mr. DeWolfe: Objected to as immaterial; it is not the Zero Hour.

The Court: Unless it is the Zero Hour—

Mr. Collins: "What were these people doing at the radio station?—let's see. No, "What were they broadcasting?" This relates to some—I assume it relates to 17 persons, including Major Cousens and Captain Ince, that appear on that Exhibit 2.

Mr. Tamba: No, Ince is one of those he escorted.

The Court: The objection will be sustained. [35]

(A. First, manuscripts were prepared by the Japanese General Headquarters. They were ordered

(Deposition of Tamotsu Murayama.)

to prepare some radio dramas, some commentaries, and at the very last moment, just before the broadcast some parts were cancelled by Buddy Uno.)

Q. What were those scripts and manuscripts that you mentioned, were they propaganda?

Mr. DeWolfe: Object to that as incompetent, irrelevant.

The Court: Objection sustained.

(A. I didn't think. Some propaganda were prepared by the army, Japanese Imperial Headquarters.)

Q. Did these prisoners of war broadcast this propaganda over the air?

Mr. DeWolfe: Object to that as immaterial, incompetent, nothing to do with the Zero Hour.

The Court: Objection sustained.

(A. They were ordered to read it.)

Q. And they did read it over the air?

Mr. DeWolfe: Same objection, sir.

The Court: Objection sustained; same ruling.

Mr. Collins: I can't state definite, if your Honor please, that that relates to other programs. It will may include this program. I am not certain of that. The next sentence will show.

(A. They had to.)

Q. What time did these prisoners of war broadcast during the day?

A. Between eleven and twelve, or thereabouts.

Q. When they finished broadcasting, did you take them back to Camp Bunka?

(Deposition of Tamotsu Murayama.)

A. Yes, I did.

Q. Did you have official capacity around Radio Tokyo later in the day?

A. I took manuscripts to Radio Tokyo.

Q. You delivered manuscripts there?

A. Yes, I was ordered to take down the manuscripts sometimes.

Q. Whom did you take them to?

Mr. DeWolfe: Objected to as incompetent, irrelevant and immaterial; no reference to the Zero Hour program whatsoever, question or answer.

The Court: Objection sustained. [36]

(A. Took down to the section that, let's see. Had to take it down to the music section to prepare musics, no, wait a minute. I took all manuscripts at once and I placed on, who was it, sometimes I left it with Mr. Yamazaki, sometimes with Mr., I forget, anyway I leave there POW manuscripts.)

Q. In other words, you picked up the manuscripts prepared by the prisoners of war at Bunka Camp and delivered them to the radio station, is that correct?

Mr. DeWolfe: Same objection, if it please the Court.

The Court: Same ruling.

(A. Yes, I did.)

Q. Did you have any other official capacity for these manuscripts other than to take them down to Radio Tokyo?

(Deposition of Tamotsu Murayama.)

A. No, I didn't.

Q. Then you would return to Bunka Camp?

A. I was just hanging around Radio Tokyo rest of the day listening to music or sitting around.

Q. Did you have any regular hours at Bunka?

A. Well, my duty was to take these boys to the Radio Tokyo, so as soon as my duty is over I went down to Radio Tokyo, or went home because I was not feeling well then.

Q. While you were loafing out at the radio station they had no interpreter at Bunka? [37]

A. Well, Uno was sitting with POWs right in POW quarters where all POW were assigned to their duties; blackboard, their names and amount of work to be done so Uno, and—name by name were there so I was not needed around the camp at all, particularly around POW quarters.

Q. In other words, they had no need for your services at all in Bunka? A. No.

Q. Did they keep you out there for how long?

A. Until I was kicked out.

Q. Tell us how long in months from the time you started working at Bunka until you finished, you were kicked out?

A. December, 1943, to, it is safe to say, somewhere around January, January or February, 1945.

Q. During this period of time they kept you out there and your services were not needed whatever?

A. They needed me as an interpreter to escort

(Deposition of Tamotsu Murayama.)

these boys back and forth to Radio Tokyo and all that.

Q. Didn't you testify a minute ago that your services were not needed at all there?

A. I didn't say, "needed at all." I said that after my duty is over I did not go over to the POW quarters.

Q. Were you present when Major Tsuneishi gave orders to the prisoners of war that they must cooperate?

Mr. DeWolfe: Objected to as incompetent, irrelevant.

The Court: Objection sustained.

(A. Yes.)

Q. And he said that their lives would not be guaranteed if they did not?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. Yes.)

Q. And that one Williams stepped forward and said he would not cooperate?

Mr. DeWolfe: Objected to as immaterial, incompetent.

The Court: Objection sustained.

(A. Yes.)

Q. Was Williams executed?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. No.) [38]

(Deposition of Tamotsu Murayama.)

Q. Did you tell me in the interview here this morning that Williams was executed, and that you knew he was executed?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. No, I didn't say so. I think my wording was not accurate.)

Q. Didn't you tell me this morning that Major Tsuneishi said in the administration office in your presence, that Williams must be executed?

Mr. DeWolfe: Same objection.

The Court: Same ruling; the objection will be sustained.

(A. Yes he said so, but I said——)

Q. And I asked you this morning, was he executed, do you recall that?

Mr. DeWolfe: Objected to as incompetent, irrelevant.

The Court: Objection sustained.

(A. No, I didn't say it.)

Q. Do you recall my asking that question?

Mr. DeWolfe: Objected to as immaterial, incompetent.

The Court: Objection sustained.

(A. You questioned me about Williams, but I didn't say he was executed.)

Q. You didn't tell me that this morning?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(Deposition of Tamotsu Murayama.)

(A. No, I didn't say so, Mr. Storey. I think it was your misunderstanding. My inaccuracy in wording, I am sorry.)

Q. Have you talked with anyone during the noon hour concerning the execution of Williams?

Mr. DeWolfe: Objected to as immaterial, incompetent.

The Court: Objection sustained.

(A. Oh, I said to Mr. Fujimura, that——)

Q. Have you talked to anyone during the noon hour today concerning the execution of Williams?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

Mr. Collins: And then this last question, this is interposed by Mr. Tamba.

Mr. Tamba: You mean statement.

Mr. Collins: That's right—statement. He wants to know did you talk to me about it this noon.

Mr. DeWolfe: Objected to as incompetent, irrelevant.

The Court: Objection sustained.

(A. Well, Mr. Tamba said: "You told Mr. Storey that Williams was executed", so I said: "No, I never did and there must be some misunderstanding", I said.)

Mr. Collins: Then the following question by Mr. Storey, continuing the questions by Mr. Storey.

Q. You have testified that you were present when Mr. Uno slapped Major Cousens in the radio station?
A. Yes.

(Deposition of Tamotsu Murayama.)

Q. Tell us about that incident?

A. I was back of the room when Uno was arguing something in an [40] angry tone with Major Cousens. Then I saw Uno slap Cousens, so I left the room immediately after that.

Q. What were they arguing about?

A. I don't know.

Q. How big was the room where they were arguing?
A. It is a very big room.

Q. You testified that they were arguing in loud voices?

A. Well, I heard angry voices. I could imagine from the tone of voice—

Q. But you cannot remember what they were arguing about?

A. No, I don't. I didn't even inquire, but Major Cousens was so angry, every time he mentions Uno's name he was holding his fists like this (witness clenches fists).

Q. Did Major Cousens clench his fists after he was slapped by Uno?

A. I left the room immediately so I don't know.

Q. How many times did he slap him?

A. Only once as far as I know.

Q. How long were you in the room during this argument?

A. I have no recollection how long I stayed there but very short time.

Q. Did you enter the room with Mr. Uno?

A. Yes I followed him, no, wait a minute, when

(Deposition of Tamotsu Murayama.)

I entered there they were arguing. That is the way I remember it.

Q. Do you recall any portion of the argument?

A. I don't

Q. And give us, approximately, the dimensions of the room you were in when this argument was taking place?

A. That room was, let's see. It is very difficult to say. About four times larger than this room (witness refers to the room in which the deposition is being taken, which was decided on by counsel was 10x20).

Q. Who occupied that office at that time? [41]

A. I think it was the Zero Hour room. I think it was the Zero Hour room.

Q. Who else was in the room at that time?

A. Three, four boys.

Q. Who were they?

A. I cannot say exactly, Mr. Mitsushio, pardon me, George Nakamoto was there.

Q. Are you sure Mr. Nakamoto was present?

A. I think he was there. I am not sure though. I recall three or four boys were there.

Q. Who else was there?

A. No, I don't recall, who was there. It was many years ago and I cannot recall every detail of every hour I have spent.

Q. Was Mrs. D'Aquino there?

A. No, I don't think so.

Q. You have given testimony to the effect that

(Deposition of Tamotsu Murayama.)

you submitted a copy of international law concerning treatment of prisoners of war to the officials of Camp Bunka?

Mr. De Wolfe: I object to that as being incompetent, irrelevant; it went out of the testimony on direct, of this witness.

The Court: Objection sustained.

(A. Yes.)

Q. Where did you get that copy?

Mr. De Wolfe: Objected to as immaterial.

The Court: Objection sustained. I suggest the jury take a recess.

(A. Out of my law books.)

(The jury left the jury box and retired for a recess. The following occurred outside the presence of the jury.)

The Court: May I inquire, Mr. Collins, how many depositions there are?

Mr. Collins: Well, I want to read one more deposition after this, Your Honor, and then I have some witnesses thereafter.

The Court: You have only one more deposition?

Mr. Collins: Yes, I have a number more, but I didn't wish—I wish to read them in a certain order.

The Court: Well, I will address my remarks now to the number that has not been read in evidence.

Mr. Collins: Oh, I have quite a few, Your Honor. I have 14 here now.

The Court: I am prepared to take those up in the absence of the jury and rule on them, so that you

(Deposition of Tamotsu Murayama.)

may have a record. We are wasting considerable time here, and it can not be justified, even under the law. However, as I have tried to indicate, I have always been very liberal in giving an opportunity to make any showing either side desired, that I thought had any relation to the issues in this case. But I might suggest that some of these depositions could be disposed of on motion in their entirety, with possibly two or three or four or five interrogatories.

Mr. Collins: I don't know.

The Court: I say that now so that you may have an opportunity to give some thought to the matter, and I might further say that it might prejudice this case either on one side or the other, this method of procedure, if I have any conception of my duty, and I don't know what is in the depositions. I don't want to prejudice them, but in the light of those depositions that have already gone in, I am afraid that we are not only wasting time, but it may prejudice your client.

Mr. Collins: Well, that is a question. I mean, if objections are going to be sustained as to certain lines of questioning, then those are matters that we could take up with the Court in the absence of the jury. That is true enough. Then if the Court sustains objections to, say, given lines,—

The Court: You will have a record.

Mr. Collins: We will have a record there. Then we can still make an offer of proof.

(Deposition of Tamotsu Murayama.)

The Court: That is all right. [43]

Mr. Collins: Of course, I think the depositions then would constitute an offer of proof, by offering them.

The Court: There is no necessity of going on with the full question and answer. In doing that, it would also protect your legal rights.

Mr. Collins: Well, I am sure that two of these—the balance of this deposition of course, we are getting close to the end of this deposition.

Mr. De Wolfe: What page?

Mr. Collins: There will be at least one more deposition.

The Court: You may take it up in the recess; if there is any way you can meet the situation I think it would be very well to consider it.

Mr. Collins: I think there is only one more deposition that will be of like character as this one. There is only one more, I am convinced of that.

The Court: I have one deposition in mind, I would have no hesitancy on a motion to dispense with the whole deposition, if I were as familiar with it as I am now, with the exception of two or three questions that may now be legally material to the issues before the Court.

Mr. Collins: Well, then, I would say this then. What we might do——

The Court: Think about it in any event, and any plans you can suggest—I had in mind that in the interests of time also, we might do this, and in

(Deposition of Tamotsu Murayama.)

the interest of not prejudicing your client one way or the other.

If I am not hearing this case, I would be hearing some other case, and it is important.

(Recess.) [44]

Mr. Collins: Page 29, Mr. Tamba, line 23:

Q. Did the prisoners of war at Camp Bunka know they had rights under international law as prisoners of war?

Mr. DeWolfe: I object to that as incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. They knew that, so Major Cousens and the boys often requested me to help them according to the international law.)

Q. Did you personally present Major Tsuneishi with a copy of this?

Mr. DeWolfe: I object to that as incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. I presented Tsuneishi, pardon me, Fujimura, and requested him to explain to Major Tsuneishi.)

Q. Did Fujimura present this to Major Tsuneishi?

Mr. DeWolfe: Same objection, your Honor.

The Court: Same ruling.

(A. I think he explained to Major Tsuneishi but Major Tsuneishi did not listen, so Mr. Fujimura wanted to resign as civilian head of that camp, and——)

(Deposition of Tamotsu Murayama.)

Q. Were you present during the conversation between Major Tsuneishi and Mr. Fujimura?

A. I was not there.

Q. So all you know about this is what someone else told you?

A. Mr. Fujimura told me.

Q. Mr. Murayama, shortly after war was declared, were any foreign nationals interned in Japan? A. Pardon me?

Q. (Question repeated.) A. Yes.

Q. Why were they interned? A. Why?

Q. Yes. A. I don't know. [45]

Q. Were they interned because the Japanese government thought them dangerous in their internal security, internal security of Japan?

Mr. DeWolfe: I object to that as calling for a conclusion.

The Court: Objection sustained.

(A. I didn't know the policy of the Japanese Government.)

Q. Were you interned after the outbreak of the war?

Mr. DeWolfe: I object to that as incompetent.

The Court: Objection sustained.

(A. I was not, but I was arrested, and——)

Q. How long were you held?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. I was detained for two days and I was ordered not to go out without official permission.)

(Deposition of Tamotsu Murayama.)

Q. Besides Major Cousens, were you ever present when any prisoner of war was slapped?

A. No.

Q. Besides Major Cousens, were you ever present when any prisoner of war was beaten in any way?

Mr. DeWolfe: I object to that as incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. No. Some prisoners complained to me afterwards but I was not present when anyone was particularly slapped.)

Q. Did you ever see Miss Toguri give food to the prisoners of war? A. I was not present.

Q. Were you ever present when Miss Toguri gave medicine or cigarettes to the prisoners of war?

A. Some Niseis always secretly handed to them cigarettes, bread, butter, vitamin pills and other things, but I was never present when Miss Toguri brought them things. Most of the times we give them very secretly.

Mr. DeWolfe: I move that go out, Your Honor.

The Court: Objection sustained. It may go out.

Q. Was Mr. Uno still employed at Camp Bunka when you left for the army?

Mr. DeWolfe: I object to that as immaterial.

The Court: Objection sustained.

(A. I don't know whether he was there when I left or he left for Manila after I left there, I don't recall.)

(Deposition of Tamotsu Murayama.)

Q. Was Mr. Uno one of your enemies at the camp?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. I didn't say enemies, but I was interfering in many ways.)

Q. Do you hold any bias against Major Tsuneishi?

Mr. DeWolfe: I object to that as incompetent.

The Court: Sustained.

(A. I didn't, but I wanted to treat P.O.W.s as gentlemen, but Major Tsuneishi considered P.O.W.s more or less criminally so he thought he can order them anything he wanted to. That was the difference of the conception of prisoners of war between me and Major Tsuneishi.)

Q. Are you biased against Major Tsuneishi?

Mr. DeWolfe: No answer to that.

(Mr. Tamba: He answered that.)

Q. Mr. Murayama, have you ever written any book dealing with propaganda policy for the Japanese government?

A. I never wrote a book.

Q. Did you ever write a long treatise on propaganda for the Japanese government?

A. During the wartime I was asked to file comments on news and other things but it was not a publication or edited. Just to submit as part of my duty to the Imperial Headquarters, just mimeographed—

(Deposition of Tamotsu Murayama.)

Mr. Tamba: If there is a book or a treatise on which you are questioning the witness I demand that the witness be [47] shown the document. I want the witness to see the book or the treatise then he can answer your questions.

Mr. Storey: I think the government has the right to ask this man about the treatise——

Mr. Tamba: Show him the treatise and then you can ask him.

Q. Do you deny writing a book——

A. No, not a book.

Q. Did you prepare anything for the Japanese Government in the nature of propaganda?

A. Well, I was requested to write something on news so I write this kind of a news, and so on and so on, and I submit it as I was ordered.

Q. When did you submit it?

A. I do not recall the date.

Mr. Tamba: I now make the request again that the witness be permitted to see this treatise or book before he is asked any more questions.

Mr. Storey: It is a very simple question, Mr. Tamba.

Mr. Tamba: I again demand that the book or treatise be presented to the witness. He has the right to see any book that he is supposed to have written, if you are going to ask him any questions about it.

Mr. Storey: I offer this book in evidence as government's Exhibit "1" in Murayama deposition.

(Deposition of Tamotsu Murayama.)

(Book is shown to witness.) [48]

Q. Was it while you were working at Camp Bunka that you prepared this treatise?

A. I recall that the Niseis was ordered to perform some kind of thing. I was ordered to analyze some news so I said: "This kind of news is no good, this kind of news is all right," and I submitted it to General Headquarters, I think, but it was not——

Q. Was this prepared while you were working at Camp Bunka?

A. That's right. I recall that now, yes.

Redirect Examination

By Mr. Tamba:

Q. Is your name Ikira Namikawa?

A. My name could be read like that.

Recross-Examination

By Mr. Storey:

Q. Does your name appear on the cover of that book in Japanese characters, and I am referring to Government's Exhibit 1 in the deposition?

Mr. DeWolfe: I object to that as incompetent, irrelevant and immaterial.

The Court: Sustained.

(A. Yes (indicating Japanese characters on the cover of the exhibit). When I was arrested and beaten up Kempei tai ordered me to cooperate with the war effort, otherwise I would be thrown

(Deposition of Tamotsu Murayama.)

into prison. If anything happened I could not support my wife and children so it was part of my duty assigned to.) [49]

Q. That is your work there in front of you (indicating Government's Exhibit "1" in this deposition)?

A. I didn't say this is most of the work, but this is some work I was ordered to do.

Q. That is some of the work you were ordered to do? A. Yes.

Redirect Examination

By Mr. Tamba:

Q. Is that book all your work or other people's work?

Mr. DeWolfe: I object to that as incompetent and immaterial.

The Court: Objection sustained.

(A. English part of the book was Radio Tokyo's work, and Japanese part—I was ordered to put in my own comments and in order to help P.O.W. and other boys I had to describe some how.)

Q. After January, 1945, after you were removed from Camp Bunka, did you stay around Radio Tokyo? A. Yes.

Q. Until you were drafted? A. Yes.

Q. Counsel has offered Government's Exhibit 1, and I am turning from the left of the book toward the front (indicating Exhibit 1), where there are a number of Japanese characters. Who wrote these characters?

(Deposition of Tamotsu Murayama.)

A. I did, and it was mimeographed.

Q. Then the following pages—then I note here on page 4 there is an English translation. Who wrote that translation?

A. English was original, so Radio Tokyo broadcast.

Q. In other words, you did not translate any of the English contained in this book, is that correct?

Mr. DeWolfe: I object to that as immaterial, improper, incompetent.

The Court: Read that again, please.

(Question reread.)

The Court: I will allow it.

A. I was ordered to criticize radio propaganda and it was done. [50]

Q. And it was done in Japanese characters by you?

Mr. DeWolfe: Objected to as incompetent and immaterial.

The Court: Sustained.

(A. Yes, because I was ordered to write it.)

Q. None of these translations were your translations?

Mr. DeWolfe: I object to it as incompetent.

The Court: Objection sustained.

(A. It is not and some of the information came from army officers, Imperial Headquarters officers ordered me to write in Japanese so many parts. I

(Deposition of Tamotsu Murayama.)

wrote according to Japanese army officers' orders.)

Q. Who is Akira Namikawa?

A. Oh, Akira Namikawa, he is Information Board official who collaborated with Major Tsuneishi for all this war propaganda.

Q. This book which has been referred to as Government's Exhibit "1" has nothing to do with regard to any testimony you have given with regard to treatment of prisoners of war in Camp Bunka?

A. It has not. I risk my life to help POWs during wartime. [51]

Q. Was that written from day to day, or—

A. Well, maybe, it is a long time. It covers some time and Army officers give me Japanese notes, and say, "here, put this in, and put this in, to inspire Radio Tokyo boys in connection with your radio propaganda."

Q. Who were the Japanese army officers, if you recall?

A. I don't recall their names though, two, three officers handed me notes and I write in.

Q. What rank, if you recall, did these officers hold? A. Some captains, some majors.

Q. Did Tsuneishi ever direct you in a publication of this kind?

A. Yes, Major Tsuneishi asked me some points to be emphasized, some civilians brought in some papers, too. I compiled altogether.

(Deposition of Tamotsu Murayama.)

Recross-Examination

By Mr. Storey:

Q. These officers whom you have just mentioned called on you to advise them in their propaganda work?

A. No, they sent papers to the Bunka Camp and it was on the table—on my table—

Q. What were you supposed to do with this material when it came? A. I put together.

Q. Analyze it?

A. I took together and some Japanese parts I put in where they want.

Q. Did you make any recommendation, or advise them in any way concerning propaganda?

A. Well, I put in, "this is all right, or no good."

Mr. Collins: Was there an exhibit attached?

Mr. Tamba: There is a book exhibited.

Mr. DeWolfe: I did not understand counsel to offer this in evidence. I object to it being admitted in evidence as incompetent, irrelevant and immaterial, some book he wrote, and as having nothing to do with the issues in this case.

Mr. Collins: I have not read the book, if Your Honor please. The book seems to be in Japanese and also in English.

Can you tell me, Mr. Tamba, is there a complete translation of this Japanese attached.

Mr. Tamba: I would not know. That book was presented at the deposition by Mr. Storey. He offered it, and that is the first time I had seen it. [53]

(Deposition of Tamotsu Murayama.)

Mr. DeWolfe: If counsel is offering it, we object to it.

Mr. Collins: It was offered in evidence at the deposition itself, and if you are raising objection to it, I suggest you make your objection now.

Mr. DeWolfe: I have already objected.

The Court: The objection will be sustained. Let it go out and the jury will disregard it for any purpose of this case.

Mr. Collins: I will read the certificate that is attached to this deposition.

(Certificate read.)

/s/ TAMOTSU MURAYAMA.

Japan,

City of Tokyo,

American Consular Service—ss:

I do solemnly swear that I will truly and impartially take down in notes and faithfully transcribe the testimony of Tamotsu Murayama, a witness now to be examined. So help me God.

/s/ MILDRED MATZ.

Subscribed and sworn to before me this 9th day of May, A.D. 1949.

/s/ THOMAS W. AINSWORTH,
Vice Consul of the
United States of America.

[American Consular Service Seal.]

Service No. 834a; Tariff No. 38; No fee prescribed.

DEFENDANT'S EXHIBIT "I" IN
MURAYAMA DEPOSITION

Capt. Edwin Kalbfleish, Jr.

122 Drake Avenue

Webster Groves 19, Mo.

August 12, 1947

Dear Prince Ri:

I find this a rather difficult letter to write, Your Highness. For when one attempts to thank another for saving his life, it should be done only in person. Printed words are too impersonal to adequately convey the feeling which is behind them; only the spoken word can express the true feeling.

But since many miles separate us, I must use this method instead of the personal one.

It was only early this year that I learned through my good friend Tamotsu Murayama, that it was your intervention which prevented me from facing a firing squad or a hangman's noose. When I paced away my time in solitary confinement at Shinegawa Camp, I felt that my case was almost hopeless. However, my trust still rested in the mercy of the great God who would not allow my life to be snuffed out for having tried to help my fellow prisoners of war. And when I was marched out of that camp, I knew that He had intervened to preserve my life. I did not know how He had done it. But I was positive that my life had been spared because Murayama-san had been able to put my case before someone with great authority.

That someone was you, Your Highness. I can only say, "thank you," for I know of no other words to express more sincerely what I feel. Not only do I thank you, but also my parents and my wife thank you. For you made it possible for me to return to them and to once again enjoy family happiness.

I sincerely hope that some day we may meet, and I may tell you this in person. I shall always be deeply grateful for your beneficence.

Sincerely and respectfully,

/s/ EDWIN KALBFLEISH, JR.

/s/ THOMAS W. AINSWORTH,
American Vice Consul.

[American Consular Service Seal.]



Mr Murayama.

Dear Mr Murayama,

We have just heard that your baby is ill, and all of us feel that we would like to help you in your moment of suffering.

If it will console you to know that there are others hoping and praying with you that your child will soon get well again, then you have that knowledge.

As we do not forget how good you have been to us in the past, we want you to know that our thoughts are with you at this moment and that we feel that the illness of your child is our concern as it is yours.

And we hope that this little note will do something to ease your sorrow and make you hope, as we hope, that your troubles will soon roll away and that in a short time your baby will be back with its father again, healthy and well, and just as it was before.

Kenneth E. Peckys.

Yours very sincerely, Mark S. Steeler

Major Wellington M. Cox

F. Sgt. Newton H. Light.

Stephen H. Shattles

John D. Provo
Jack K. Wiener

W. E. Jones

Donald L. ...

Bucky H. ...

B. J. ...

W. E. Jones

Harry ...

Al ...

Joseph ...

Asterita

Japan,
City of Tokyo,
American Consular Service—ss:

CERTIFICATE

I, Thomas W. Ainsworth, Vice Consul of the United States of America in and for Tokyo, Japan, duly commissioned and qualified, acting under the authority of a certain stipulation for taking oral designations abroad, and upon order of the United States District Court, made and entered March 22, 1949, in the Matter of United States of America, Plaintiff, vs. Iva Ikuko Toguri D'Aquino, Defendant, pending in the Southern Division of the United States District Court, for the Northern District of California, and at issue between United States of America vs. Iva Ikuko Toguri D'Aquino, do hereby certify that in pursuance of the aforesaid stipulation and court order and at the request of Theodore Tamba, counsel for the defendant Iva Ikuko Toguri D'Aquino I examined Tamotsu Murayama, at my office in Room 335, Mitsui Main Bank Building, Tokyo, Japan, on the ninth day of May, A.D. 1949, and that the said witness being to me personally known and known to me to be the same person named and described in the interrogatories, being by me first sworn to testify the truth, the whole truth, and nothing but the truth in answer to the several interrogatories and cross-interrogatories in the cause in which the aforesaid stipulation, court order, and request for deposition issued, his evi-

dence was taken down and transcribed under my direction by Mildred Matz, a stenographer who was by me first duly sworn truly and impartially to take down in notes and faithfully transcribe the testimony of the said witness Tamotsu Murayama, and after having been read over and corrected by him was subscribed by him in my presence; and I further certify that I am not counsel or kin to any of the parties to this cause or in any manner interested in the result thereof.

In witness whereof, I have hereunto set my hand and seal of office at Tokyo, Japan, this 19th day of May, A.D. 1949.

/s/ THOMAS W. AINSWORTH,
Vice Consul of the
United States of America.

[American Consular Service Seal]

Service No. 943; Tariff No. 38; No fee prescribed.

[Endorsed]: Filed May 23, 1949.

In the Southern Division of the United States
District Court for the Northern District of
California

No. 31712 R

UNITED STATES OF AMERICA,

Plaintiff,

vs.

IVA IKUKO TOGURI D'AQUINO,

Defendant.

DEPOSITION OF SUISEI MATSUI

Deposition of Susei Matsui, taken before me, Thomas W. Ainsworth, Vice Consul of the United States of America, in Mitsui Main Bank Building, Room 335, in Tokyo, Japan, under the authority of a certain stipulation for taking oral designations abroad, and upon order of the United States District Court, made and entered March 22, 1949, in the Matter of the United States of America vs. Iva Ikuko Toguri D'Aquino, pending in the Southern Division of the United States District Court, for the Northern District of California, and at issue between the United States of America vs. Iva Ikuko Toguri D'Aquino.

The plaintiff, appearing by Frank J. Hennessy, United States District Attorney; Thomas DeWolfe, Special Assistant to the Attorney General, and Noel Storey, Special Assistant to the Attorney General, and the defendant, appearing by Wayne N. Collins and Theodore Tamba.

The said interrogations and answers to the wit-

ness thereto were taken stenographically by Mildred Matz and were then transcribed by her under my direction, and the said transcription being thereafter read over correctly to the said witness by me and then signed by said witness in my presence.

It is Stipulated that all objections of each of the parties hereto, including the objections to the form of the questions propounded to the witness and to the relevancy, materiality and competency thereof, and the defendant's objections to the use of the deposition, or any part of the deposition, by plaintiff, on the plaintiff's case in chief, shall be reserved to the time of trial in this cause.

SUISEI MATSUI

of Kamakura, Honshu, Japan, of lawful age, being by me duly sworn, deposes and says:

Direct Examination

By Mr. Tamba:

Q. Mr. Matsui, the name Matsui is one which you adopted for stage purposes? A. Yes.

Q. And you use that name all the time?

A. Yes.

Q. And your real name, the name you were born under is what?

A. Ioi is family name. Seiei Ioi.

Q. And Mr. Matsui, you were born in Japan?

A. Yes.

Q. And received your education in Japan?

A. Yes.

Q. What school?

A. Wasuda University.

(Deposition of Suisei Matsui.)

Q. Did you attend any school in the United States? A. A few terms in Michigan.

Q. And you have been in the United States?

A. Yes.

Q. When was the first time you came to the United States? A. That was 1925 sometime.

Q. Did you return to the United States later on?

A. Yes.

Q. When, do you recall?

A. I forget—about five or six years later.

Q. At the time of the Olympic games?

A. Yes.

Q. Were you the editor of Newsreel, a Japanese newspaper?

A. At the time when the Olympics was on I edited Asahi newsreels.

Q. Then did you return to the United States again?

A. Yes, as an actor in Paramount Studio.

Q. And you were back and forth from Japan to the United States, were you not, at that time?

A. Yes.

Q. Have you ever been in any pictures in Hollywood? A. Yes.

Q. What pictures?

A. First was "Hell and High Water." No, first one was "Paramount on Parade," and second big one was "Hell and High Water," and a couple of other short releases.

Q. What part did you take in "Paramount on Parade"?

(Deposition of Suisei Matsui.)

A. Master of ceremonies, and when the Panay incident took place I went down to Hollywood to reedit the film to pro-Japanese feelings, and Paramount called me back to reedit it pro-Japanese way.

The Court: Just a minute. The reporter is having some difficulty. Speak up.

Mr. Tamba: I am sorry, Your Honor.

(Previous answer reread by Mr. Tamba.)

Q. Mr. Matsui, did you ever take part in any radio shows? A. Yes.

Q. Did you ever take part in the Frank Watanabe radio script? A. Yes.

Q. What station?

A. KNX Station—I was the double.

Q. Eddy Holden was Frank Watanabe?

A. Yes. I am Watanabe. He is too big for Japanese, and I am his double.

Q. Now, when war broke out, Mr. Matsui, where were you?

A. I was sent by the Japanese army to Java.

Q. For what purpose?

A. To take care of the broadcasting, maybe publicity business.

Q. And you were in charge of the station there for how many years? A. About three years.

Q. Then you were recalled to Japan later on?

A. Yes.

Q. For what purpose?

A. To organize, to supervise radio programs, including prisoners program here.

(Deposition of Suisei Matsui.)

Q. Let me ask you, did you have a prisoner of war program in Batavia? A. Yes.

Q. Will you please tell us what the prisoner of war program was?

A. By army orders, in my station commentary—so I must get acquainted with the other stations, I mean enemy stations, so I started the war prisoner hour. That is mainly Red Cross purposes. Prisoners can use their own communications.

Q. In other words, it was used only for the purpose of having the prisoners broadcast messages home? A. Yes.

Q. And also to receive messages from home?

A. Yes, I get answers from prisoners' homes.

Q. I show you a document here, containing several pages, and ask you what that is?

(Counsel hands paper to witness.)

A. That was the answer, which came from the outside.

Q. To the prisoners of war there? A. Yes.

Q. And did you deliver it to the prisoners of war there?

A. Yes. It was delivered by me. My money. I paid for this copy.

Mr. Tamba:

(I offer this document in evidence as Defendant's Exhibit "1" in Matsui deposition.)

Mr. DeWolfe: Objected to as incompetent, irrelevant and immaterial.

The Court: What is it?

(Deposition of Suisei Matsui.)

Mr. Collins: It is a document. I have not seen it, Your Honor. It is attached only to the original.

Mr. Tamba: It has to do with prisoners of war messages from the Java station.

The Court: Objection sustained.

Mr. Collins: No objection.

Q. Mr. Matsui, I show you this paper and ask you what that is?

(Document handed to witness by Mr. Tamba.)

A. That is Christmas program.

Q. For American prisoners of war?

A. Yes.

Mr. Tamba:

(I offer this document in evidence as Defendant's Exhibit "2" in Matsui deposition.)

Mr. DeWolfe: Objected to incompetent, irrelevant. It is undoubtedly Java, again.

Mr. Tamba: Yes, that is correct Mr. DeWolfe.

Mr. Collins: What are they, prisoner of war messages?

Mr. Tamba: Yes, they are exchanges.

The Court: The objection will be sustained.

(Mr. Storey: No objection.)

Q. I now hand you another document and ask you if it is the same as Exhibit "1"?

(Document handed to witness by Mr. Tamba.)

A. Yes, broadcast from Australia.

(Deposition of Suisei Matsui.)

Q. And those are messages to prisoners of war?

A. Yes, at Java camp.

Q. And you delivered those messages to the prisoners of war? A. Yes.

Mr. Tamba:

(I offer this document in evidence as Defendant's Exhibit "3" in Matsui deposition.)

Mr. Storey: No objection.

Mr. DeWolfe: Objected to as incompetent, irrelevant. The message is from Australia to prisoners in Java.

Mr. Tamba: That is correct, it is still Java.

The Court: Objection sustained.

Q. I show you this document and ask you what that is?

(Document handed to witness by Mr. Tamba.)

A. This is the same. I gave the prisoners a chance to change a little and he write on the bottom.

Mr. Tamba:

(I offer this document in evidence as Defendant's Exhibit "4" in Matsui deposition.)

Mr. DeWolfe: Same objection, same kind of document.

The Court: Same ruling. The objection will be sustained.

Mr. Collins: No objection.

Q. I hand you another item and ask you what that is.

(Deposition of Suisai Matsui.)

(Counsel hands document to witness.)

A. This is so-called camp newspaper. I received it on short wave and sent down to the camp and let them read this one.

Mr. Tamba:

(I offer this document in evidence as Defendant's Exhibit "5" in Matsui deposition.)

Mr. Storey: No objection.

Mr. DeWolfe: Objected to as immaterial, a Java newspaper.

The Court: Objection sustained.

Mr. Collins: Is that what it is?

Mr. Tamba: Yes, this has reference to Java. I think with the exception—yes.

Q. I hand you a document marked March 7, 1943, and ask you what that is.

(Counsel hands document to witness.)

A. Americans broadcasting to their country.

Mr. Tamba:

(I offer this document headed March 7, 1943, as Defendant's Exhibit "6" in Matsui deposition.)

Mr. Storey: No objection.

Mr. DeWolfe: Objected to as immaterial, Java broadcasts.

The Court: Objection sustained.

Mr. Collins: Can you tell us just the nature of that question.

(Deposition of Suisei Matsui.)

Mr. Tamba: That is in reference to Java. The next one is Bunka, the next one that follows.

Q. Mr. Matsui, I hand you document dated February 27, 1943, and ask you what that is.

(Counsel hands document to witness.)

A. This is a letter that they appreciate my services for them in the camp.

Mr. Tamba:

(I offer this document in evidence as Defendant's Exhibit "7", in Matsui deposition.)

Mr. Storey: No objection.

Mr. DeWolfe: Objected to as immaterial.

The Court: Objection sustained.

Mr. Tamba: I will take it back, this is Java too.

Q. I hand you another document and ask you what it is.

(Counsel hands document to witness.)

A. This is a list of war prisoners in Java.

Mr. Tamba:

(I offer this document in evidence as Defendant's Exhibit "8", in Matsui deposition.)

Mr. Storey: No objection.

Mr. DeWolfe: Objected to as immaterial, it is Java.

The Court: Objection sustained.

Mr. Collins: Did that pertain to Java too, Mr. Tamba?

Mr. Tamba: Yes, that is right.

(Deposition of Suisei Matsui.)

Q. What became of the rest of your records, Mr. Matsui?

A. I sent that one to headquarters of Japanese army but that boat was sunk.

Q. Did you have any girls broadcasting at your station in Java? A. Yes.

Q. And did they broadcast in the English language? A. Yes, they did.

Q. What was the nationality of these girls who broadcast there?

A. Indonesian boys and girls I used. All Indonesian.

Q. You never compelled any prisoners of war to broadcast any propaganda?

A. You mean in Java or Japan?

Q. In Java? A. What do you mean?

Q. All the prisoners of war broadcast there on your station were messages to their loved ones at home? A. Yes.

Q. And you were familiar with the rules of international law for the treatment of prisoners of war? A. Yes.

Q. And you followed those rules always?

A. Yes—

Mr. DeWolfe: Objected to as incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. Yes. The first time I even explained what I meant to all the war prisoners in the camp when they refused to write letters. Even the chaplain of the camp refused to write letter to their own coun-

(Deposition of Suisei Matsui.)

try so I told him to ask permission from the boss of the camp, and I waited for a few days. Then they came to me and accepted. They write themselves a personal letter.)

Q. In other words, all they broadcast were personal messages to their loved ones? A. Yes.

Q. Your radio station was quite popular, was it not, Mr. Matsui?

A. I think it was the best one in the whole occupied Japan. Only one station got the answer from another station, so when the Japanese general asked me to come and help the prisoners out over here——

Q. So you came to Japan, when, to take care of the Prisoner Hour? A. I forget.

Q. 1943? A. December, 1943.

Q. And where did you report for duty?

A. First time I did to the late General Matsui.

Q. Did you eventually come to Camp Bunka?

A. Yes, as soon as I came back. I met Tsuneishi in headquarters first time.

Q. Were you to be the supervisor of Camp Bunka?

A. Tsuneishi did not tell me that way. I explained I was the supervisor or something but Tsuneishi did not tell me like that way. I waiting about one months, one months and a half waiting. Then Tsuneishi called me and told me: "You go to Surugudai, Bunka Camp to help."

Q. What was Bunka Camp called?

A. We called it Bunka Camp.

(Deposition of Suisei Matsui.)

Q. Did it have any other name, Mr. Matsui?

A. Well,—

Q. What does Surugudai mean?

A. Name of the area. That was the secret station. Everybody called that station Surugudai Bunka Kaikan. Bunka camp sometimes it is called by the officers and soldiers. That was the old Bunka Gakuin School so the people thought that was institution or something like that.

Q. It was not referred to as a prisoner of war camp?

A. Nobody knows that, no. Very few people. Even officers in the army they do not know.

Q. Did you talk with Tsuneishi later about the prisoner of war program? A. Yes, I did.

Q. What was said on that occasion between you and him?

A. My information—my opinions was like this. The program which they had been doing looks like very funny to me, because they name their programs as “Hinomaru Hour,” that is Japanese flag, and “Tokyo Rose.” So I told Major Tsuneishi: “this is one thing, if you want to let them listen in better not use such Hinomaru Hour or Tokyo Rose, such things.

Q. When you talked about Tokyo Rose, you meant the Zero Hour?

A. Yes, Zero Hour. I first heard the name “Tokyo Rose” after the war.

Q. What did Tsuneishi say to you?

A. He did not give me answer.

(Deposition of Suisei Matsui.)

Q. He didn't agree with you?

A. No, only——

Q. What did you want the prisoners of war to broadcast?

A. Is my opinion that——

Q. The same as in Java?

A. Yes, same as in Java, and tell them truth at first. My opinion was tell them truths. Always tell them truths if you want them to listen.

Q. When you talked with Tsuneishi about that, who was present in the room, do you remember?

A. In headquarters, or Surugudai?

Q. In Surugudai?

A. He had me come to Surugudai. Very often he called everybody to headquarters in Ichigaya.

Q. When you talked to him about it, did you discuss it at headquarters?

A. Yes.

Q. Who was there?

A. Only Tsuneishi and me.

Q. Do you know a man by the name of Uno?

A. Yes, I know Buddy.

Q. Where did you meet him?

A. Buddy Uno, I know him very well first time I went to Paramount. He came to meet me at the station.

Q. Then did you see him at Headquarters or Bunka Camp?

A. Yes, afterwards when I went to Bunka Kaikan.

Q. Was he always wearing a uniform? And carrying a sword?

A. Yes.

(Deposition of Suisei Matsui.)

Q. Was Tsuneishi always wearing a uniform and carrying a sword?

A. Yes, but Buddy sometimes changed in civilian clothes.

Q. When you were in Java did you hear programs broadcast from Tokyo? A. I think so.

Q. How many did you hear?

A. Well, not so often. A couple of times, because I like to get Japanese commentary because we were to go with the Japanese headquarters plans because at that time communication was not so good by enemy airplanes going over and sometimes no telegrams and sometimes no letters or orders from headquarters arrived to Java so I liked to get Tokyo commentary.

Q. Did you hear women broadcasting from Tokyo at that time?

A. Not so often. A couple of times I think.

Q. Did Japan have other stations, besides Batavia and Tokyo for their broadcasting?

A. Yes, all parts of occupation area.

Q. Did you know some of the stations?

A. Singapore, Saigon, Java. In Java we have three.

Q. Would Tsuneishi let you change the program?

A. No, he did not like to have me over there.

Q. How long were you at Bunka?

A. All through, nearly a year, but actually I worked about a half year.

Q. Then what happened?

(Deposition of Suisei Matsui.)

A. Well, they sent me to Shanghai.

Q. Was that after you beat up somebody for stealing from a prisoner of war?

Mr. DeWolfe: Objected to as immaterial, incompetent.

The Court: Objection sustained.

(A. Yes.)

Q. Who?

Mr. DeWolfe: Object to that as incompetent.

The Court: Objection sustained.

(A. Buddy.)

Q. Why?

Mr. DeWolfe: Objected to as irrelevant.

The Court: Objection sustained.

(A. I don't know the first time. I don't know what happened, but I see what happened in the camp, but the rest of the time I see he hit the prisoners in the studio, and sometimes Buddy tried to steal prisoners' personal belongings so I tell him: "Give it back," and he refused, and he said: "I don't know you," he said that to me, so I tell him: "You said a mouthful," and I throw him down, and tell him to send the personal belongings back. He refused.)

Q. Where did that encounter with Buddy happen?

Mr. DeWolfe: Object to that as incompetent and immaterial.

The Court: Objection sustained.

(A. I forget the date.)

Q. I mean, where?

(Deposition of Sui-sei Matsui.)

Mr. DeWolfe: Object to that, incompetent, sir.

The Court: Objection sustained.

(A. In the small monitor room, what you call monitor room.)

Q. In Radio Tokyo?

Mr. DeWolfe: Same objection.

The Court: I will allow him to answer.

A. In JOAK, that is broadcasting station in Tokyo.

Q. After that you were sent to Shanghai?

Mr. DeWolfe: Object to that as immaterial.

The Court: Objection sustained.

(A. After that Tsuneishi and other officers called me up to headquarters and asked me what happened. Some of the other officers, they try to scare me, send me down to the gendarme, and finish up.)

Q. Did Tsuneishi take part in the direction of a certain moving picture, "Shoot That Flag?"

A. Yes.

Q. Whose idea was that?

A. I think it was Tsuneishi's because he planned to make the Java prisoners in a picture while I was not in Java.

Q. Did you have an argument with Tsuneishi about that picture? A. Yes, I did.

Q. What did you tell him?

A. He did not listen to me.

Q. Did you tell him it was against international law to use prisoners of war in the film?

Mr. DeWolfe: Object to that as incompetent,

(Deposition of Suisei Matsui.)

irrelevant and immaterial, talking about Java again.

The Court: Yes, objection sustained.

(A. He tried to send that film to Australia by airplane and tried to throw the film down to some part of Australia, but I stopped it.

Q. How did you stop it?

Mr. DeWolfe: Object to that for the same reason, sir.

The Court: Same ruling.

(A. I told him to stop it. I don't know whether he stopped it, or not, but, anyway, I told him to stop it.)

Q. Where was that picture made, Mr. Matsui?

Mr. DeWolfe: Same objection.

The Court: Objection sustained.

(A. It was made in Manila.)

Q. Were prisoners of war used in that picture?

Mr. DeWolfe: Object to that as irrelevant, incompetent.

The Court: Objection sustained.

(A. Many war prisoners, yes.)

Q. You had known Tsuneishi, or met him, before you came to Japan to take over Bunka Camp?

A. No.

Q. You met him?

A. I didn't know him before.

Q. Did you meet him in Sugamo or Manila?

A. Yes, once I met him in Manila. I knew him. After I joined the army I know him. Before that I don't know him.

Q. When you were in Bunka did the prisoners

(Deposition of Suisei Matsui.)

of war ever tell you they did not want to broadcast?

Mr. DeWolfe: Object to that as incompetent, irrelevant and immaterial, nothing to do with the issue of this case.

The Court: Objection sustained.

(A. Very often. They complained about writing script. They told me they did not like to take that kind of job.)

Q. Did you tell Tsuneishi that? Did you communicate that information to Tsuneishi, if you remember?

Mr. DeWolfe: Same objection, if it please the Court.

The Court: Same ruling.

(A. Well, through Mr. Fujimura.)

Q. Do you remember a blackboard at the Bunka Camp where the work was written down for the prisoners to do. A. Yes, I do.

Q. Where was that blackboard?

A. Over this desk, written on—

Mr. DeWolfe: Object to that, immaterial, incompetent.

The Court: Objection sustained.

(A. Over this desk, written on the blackboard just like for the grammar school children. "Today you must write this topic," and so and so, and Buddy sitting in the center of the chair near the wall, and he examined all scripts which came up from the prisoners.)

Q. Who started Bunka camp?

(Deposition of Suisei Matsui.)

A. I don't know.

Q. But, anyway, it was started by the time you got there?

Mr. DeWolfe: Objected to as immaterial, incompetent.

The Court: Objection sustained.

(A. Yes, but, anyway, Tsuneishi was boss of that kind of line of business. We called it, what you say, "secret mission of propaganda," or sometimes translated——)

Q. What was the Japanese translation?

Mr. DeWolfe: Object to that as immaterial, incompetent.

The Court: Objection sustained.

(A. Boryaku sen den. Sen den is "propaganda." Boryaku is "intriguish.")

Q. Mr. Matsui, were the prisoners of war well fed at Camp Bunka?

Mr. DeWolfe: Object to that as not germane to the issue here, incompetent, irrelevant, immaterial.

The Court: Objection sustained.

(A. No. They all suffer from some kind of illness.)

Q. Do you remember some of the illnesses suffered by the prisoners of war?

Mr. DeWolfe: Object to that as irrelevant and incompetent.

The Court: Same ruling, objection sustained.

(A. Some of the prisoners complained about lessened eyesight, lack of vitamin.)

(Deposition of Suisei Matsui.)

Q. Did you buy vitamins for them out of your own pocket?

Mr. DeWolfe: Objected to as incompetent, immaterial.

The Court: Objection sustained.

(A. Yes, I did, often. Some of the prisoners' hair came out; some of the prisoners complained about catching cold, like t.b.)

Q. Did some of them have boils or skin eruptions?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. Yes.)

Q. Were you at Camp Bunka when Tsuneishi made a speech, ordering the prisoners of war to broadcast?

Mr. DeWolfe: Object to that as immaterial.

The Court: Objection sustained.

(A. Yes.)

Q. Who was with Tsuneishi at that time?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. Tsuneishi and Buddy, and always Buddy translated Tsuneishi's speech.) (page 14, lines 9-10.)

Q. Was Tsuneishi rattling his sword that day?

Mr. DeWolfe: Object as immaterial.

The Court: Objection sustained.

(A. Always he carried his sword.)

Q. Did he shake it?

Mr. DeWolfe: Same objection.

(Deposition of Suisei Matsui.)

The Court: Same ruling.

(A. Holds it on top, something like that. (Witness holds his hand across his chest, as if holding something there.) He was very short-tempered, always moving around.)

Q. Do you remember what that order was like? What did he say in that order?

Mr. DeWolfe: I think that is not the best evidence, incompetent.

The Court: Objection sustained.

(A. No, when I was there, I cannot hear what they say. Anyway, Tsuneishi had a speech and Buddy translated and just a few minutes I was standing and watching, when I went to the water closet.)

Q. Did you ever tell anybody at the camp that the prisoners of war were not properly fed?

Mr. DeWolfe: Object to that as hearsay, incompetent, irrelevant, immaterial.

The Court: He told someone; objection sustained.

(A. I didn't ever say.)

Q. Did you ever report to Tsuneishi or Uno that they were not getting enough to eat?

Mr. DeWolfe: Object to that as incompetent, irrelevant, immaterial, nothing to do with the issue in this case.

The Court: Objection sustained.

(A. Well, I didn't tell them because I thought there was no use because I buy bread and beans

(Deposition of Suisei Matsui.)

and secretly I give them when they come down to the station.)

Q. Did you know Major Charles Cousens of the Australian Army? A. Well, I met him.

Q. Where did you meet him?

A. Well, I remember in Singapore, or in the Tokyo station.

Q. Under what circumstances did you meet Major Cousens in Singapore?

A. I remember by order of the headquarters.

Q. Yes, tell us about it.

A. To find out some fellow who speaks good English, and who will be reliable to read and write, and who was maybe, active in newspaper or writing, or something.

Q. And you interviewed Major Cousens?

A. Well I saw—before I came back over here to Japan, I did not know which one was selected, I was in a couple of offices, I saw them in Singapore—

Q. Anyway, you recommended Cousens?

A. Yes.

Q. Did you tell Major Cousens that he was going to be selected to broadcast? A. No.

Q. And the circumstances under which he arrived in Japan, you did not know? A. No.

Q. Do you know Iva D'Aquino, also known as Iva Toguri?

A. Well, I did not know which is which, but very often I met the girls who broadcast in the sta-

(Deposition of Suisei Matsui.)

tion when they came out from the broadcasting room.

Q. Did you ever hear the Zero Hour broadcast?

A. Not in the same room. In the other room.

Q. Did you ever see the Zero Hour broadcast?

A. No, it is quite secret. Was quite secret.

Q. But, anyway, you saw several girls come out of the room?

A. No, not same time; not same day, so I think Tokyo Rose was not the one girl.

Q. You thought there were several girls?

Mr. DeWolfe: Object to that as incompetent, calling for the conclusion.

The Court: What he thought may go out; the objection will be sustained.

(A. Several girls took her place.)

Q. Mr. Matsui, did you ever see Buddy Uno in the broadcasting station?

A. Very often. Every day.

Q. What was he doing there?

A. Every day he brought the prisoners from Bunka Camp to the station and watched what they did.

Q. Was he standing or sitting near the microphone?

A. Just close to the microphone. He sat and examined the paper word by word.

Q. Did you tell him he should not do that?

A. I told him once or twice but he did not listen anymore.

Q. What did he say?

(Deposition of Suisei Matsui.)

A. "You are not the authorized person," he told me. "What right you have?"

Q. Did he tell you who was the authorized person?

Mr. DeWolfe: Objected to as incompetent, this is not the Zero Hour program, it is another program. That stopped at 12:00 o'clock, according to the other testimony.

Mr. Collins: I don't know that is——

The Court: Same ruling.

(A. "I was ordered from Tsuneishi".)

Q. That is what he said?

Mr. DeWolfe: Objected to for the same reason.

The Court: Same ruling.

(A. Yes, "so I am boss here", he told me, so.)

Q. In other words, he told you Tsuneishi told him to do that?

Mr. DeWolfe: Objected to for the same reason.

The Court: Objection sustained.

(A. Yes. Then I told him I was ordered by higher ranking officer. I told him, but Buddy says he did not care who they are.)

Q. In other words, Tsuneishi would not let you take charge of the camp, is that correct?

Mr. DeWolfe: Object to that, incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. No.)

Q. Did any of the prisoners of war out there voluntarily broadcast, I refer to Camp Bunka?

Mr. DeWolfe: Object to that as irrelevant, immaterial.

(Deposition of Suisei Matsui.)

The Court: Objection sustained.

A. Never. Always complained. I think I have the good proofs, the letters. That shows everybody asked me to deliver to the General to stop this. They did not like to write.)

Q. I have here some notes you gave me and ask you if that is what you are referring to? (Paper handed to witness by Mr. Tamba).

Mr. DeWolfe: Object to that irrelevant, incompetent. It has nothing to do with the Zero^o Hour program—prisoner of war messages.

The Court: Objection sustained.

(A. Yes, this is the prisoners' hand-writing. This is secretly handed over to me from Tamotsu Murayama.)

Mr. Tamba:

(I offer this paper, containing two messages, dated 29 February 1944 (on one sheet), signed "Bucky" Henshaw and Edwin Kalbfleish, Jr., as defendant's Exhibit "9" in Matsui deposition.)

Mr. Storey: No objection.

Mr. DeWolfe: Objected to as incompetent, irrelevant, immaterial, hearsay. Henshaw and Kalbfleisch are both here and have been subpoenaed as witnesses. Not the best evidence.

The Court: Submitted?

Mr. Collins: Yes, your Honor.

The Court: Objection sustained.

(A. I had many letters but I lost them.)

(Deposition of Suisei Matsui.)

Q. You had many letters but you no longer have them?

A. Yes, because I was not home for many years—at home. I was in Shanghai.

Q. Well, Mr. Matsui, Major Tsuneishi had considerable power regarding broadcasting of the propaganda, is that correct?

Mr. DeWolfe: Objected to as incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. Yes, only one. He can do anything. Whatever he want, so far as the publicity is concerned, including the broadcasting, and publicity, and sign posters, and motion pictures and books. Everything what was under his influence.)

Q. Did you ever hear of the broadcast of the Shinto prayer over the radio?

Mr. DeWolfe: Objected to as incompetent, irrelevant.

The Court: Objection sustained.

(A. Yes, that was a very funny one.)

Q. Did you tell them it was very funny?

Mr. DeWolfe: Objected to as immaterial.

The Court: Objection sustained.

(A. Yes. I did not know who made that one, but I found out when they broadcast, just before American broadcast start they get out comedians like me, and Tokogawa Musesawa, and Sojin Kamian and other fellows.)

Q. What did they sound like, these prayers?

Mr. DeWolfe: Same objection, sir.

(Deposition of Suisei Matsui.)

The Court: What did they sound like? What was that?

Mr. DeWolfe: Shinto prayers.

The Court: Objection sustained. We will now take an adjournment until 10 o'clock tomorrow. The jurors may be excused.

(A. Sometime just before the American commentary started they make sound like this (witness makes wailing sounds). They thought that would scare the enemy station or let the enemy station have some interest in the coming program. Very silly thing, I thought. They found it out, I think. He said: "Not silly". Maj. Tsuneishi was crazy I think.)

Q. Mr. Matsui, do you remember when the Swiss Government asked permission to visit the prisoner of war camp?

Mr. DeWolfe: I object to that as immaterial and incompetent.

The Court: Objection sustained.

(A. Yes, I read in the Japanese paper, I remember. First time Japanese Government refused to be investigated at the camp but later on I remember I saw the Swiss Consul said everything okay.)

Q. Did that include Bunka Camp?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. Not included.)

Q. Why?

Mr. DeWolfe: Same objection, irrelevant.

(Deposition of Suisei Matsui.)

The Court: Objection sustained.

(A. It was a secret place.)

Q. And the Swiss did not know whether it existed?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. No, even that include the Swiss Consul, so he say okay, and I think some of the Japanese superiors asked them to write that to the newspaper office. They were so powerful, you cannot imagine. One of the staff officers, when we met in the newspaper office, he said he did not like to have the English sign on the glass window, so if the newspaper office take that sign off—I could let anybody to break that glass window. I think maybe one hundred or two hundred yen if I gave a gangster on the street they come to break that glass easily. This kind of thing they can easy say in that time. Everybody went crazy.)

Q. Who was Mr. Ikeda?

Mr. DeWolfe: Go ahead.

A. The son of a Marquis, or something.

Q. Was he in Camp Bunka under Tsuneishi?

A. Yes.

Q. What did he do?

Mr. DeWolfe: Object to that as immaterial.

The Court: You may indicate for the purpose of the record the purpose of the testimony.

Mr. Collins: I think his duties, what his duties were,—

The Court: Objection sustained.

(Deposition of Suisei Matsui.)

(A. Cooperate with Buddy Uno.)

Q. Incidentally, they did not like you there, the Japanese?

Mr. DeWolfe: Object to that as immaterial, too general.

The Court: Objection sustained.

(A. Ikeda and Buddy were so intimate, so everything happened in the Bunka Camp through Ikeda reported to Tsuneishi, because Buddy could not move—always stick to the camp, see.)

Q. Did Tsuneishi call you pro-American?

Mr. DeWolfe: I object to that as immaterial, incompetent.

The Court: Objection sustained.

(A. Yes.)

Q. Tsuneishi was responsible to just one general, wasn't he, Mr. Matsui?

Mr. DeWolfe: Same objection, Judge.

The Court: Same ruling.

(A. Kind of a line, so he had the superior general.)

Q. Who was that general, if you know his name?

Mr. DeWolfe: Same objection, sir.

The Court: Objection sustained.

(A. I think General Arisuya.)

Q. Tell me this, were the Japanese staff officers familiar with international law, regarding Japanese prisoners of war, that is the treatment of American prisoners of war by the Japanese?

Mr. DeWolfe: Object to that as calling for hearsay, conclusion, incompetent.

(Deposition of Suisei Matsui.)

The Court: Objection sustained.

(A. I don't think they did.)

Q. Did you ever talk with Tsuneishi about international law and the treatment of prisoners of war?

Mr. DeWolfe: Object to that, immaterial, incompetent, hearsay.

The Court: Objection sustained.

(A. Sometimes they told me they can neglect anything. "We are fighting so we can neglect anything." They did not like my international law business.)

Q. I hand you a document and ask you what that is. (Document handed to witness by Mr. Tamba.)

Mr. DeWolfe: Go ahead.

A. This is a copy of the treatment of the war prisoners.

Q. Where did you get that document?

Mr. DeWolfe: Go ahead.

A. This one I had made a copy in Java in the Batavia library.

Q. You brought that to Japan when you came to take over the supervision of Camp Bunka?

Mr. DeWolfe: Object to it as immaterial.

The Court: Objection sustained.

(A. I translated this one and sent it to headquarters here.)

Q. Headquarters in Japan?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. Yes, and other copies of translation I gave

(Deposition of Suisei Matsui.)

to the Java camps. There are many camps in Java. Very often in the camps they had a big argument. Every time they ask me to come down to settle. I took that copy to the Japanese officers.)

Q. So they would know what to do?

Mr. DeWolfe: Same objection, sir.

The Court: Objection sustained.

(A. Yes.)

Q. That was for camps besides Batavia?

Mr. DeWolfe: Object to that as calling for hearsay, incompetent, irrelevant, immaterial.

The Court: Objection sustained.

(A. That was in Java, not here. Here all camps under Tsuneishi's influence so I cannot do anything.

Cross-Examination

By Mr. Storey:

Mr. DeWolfe: The cross-examination is not offered by the United States.

Mr. Collins: The defendant will offer the cross-examination.

(Thereupon the cross-examination of the above-entitled deposition was read, the questions being read by Mr. Collins, the answers by Mr. Tamba.)

Q. Was the Swiss Government the protecting power for American interests in Japan during the war?

Mr. DeWolfe: Object to it as immaterial.

The Court: Objection sustained.

(Deposition of Suisei Matsui.)

(A. I think so, but I am sorry to say that, frankly, they did not work hard during the war. Not work so very much. Japanese Army too strong.)

Q. Did any prisoners of war at Camp Bunka ever request you to get in touch with their protecting power for them?

Mr. DeWolfe: Objected to as irrelevant.

The Court: Objection sustained.

(A. They are afraid to do so at the beginning.)

Q. Did they ever request you to get in touch with the Swiss Government?

Mr. DeWolfe: Objected to as hearsay, incompetent.

The Court: Objection sustained.

(A. No, they did not tell me. Just I tried to through Japanese army—let Japanese army do that. Not yet from the prisoners. War prisoners asked through me and sometime asked Mr. Maruyama and told Major Tsuneishi to find out how he can do with the Swiss Consulate.)

Q. Did you pass that information on to Tsuneishi?

Mr. DeWolfe: Object to that as incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. Yes.)

Q. What did the prisoners ask you to do? What did they ask you to do?

(Deposition of Suisei Matsui.)

Mr. DeWolfe: Object to that as hearsay, incompetent.

The Court: Objection sustained.

(A. Send them back to the camps they belonged before.)

Q. So it had nothing to do with the protecting power?

Mr. DeWolfe: Same objection, sir.

The Court: Same ruling.

(A. No. They were so scared so they cannot tell; they cannot write this kind of letter from prisoners to me was very risky business. (Witness refers to defendant's exhibit "9.") They were so scared. Sometimes one of the prisoners disappeared. Rest of the prisoners thought he was killed or something in the camp. Even in the studio Buddy did not like to talk to the prisoners. Watched them.)

Q. Was any propaganda broadcast over your radio station in Java?

Mr. DeWolfe: Objected to as irrelevant, incompetent.

The Court: Objection sustained.

(A. Well, all propaganda was ordered from headquarters, like this way. Order come from the headquarters. That means Tsuneishi. He ordered all stations—occupied stations—this week you to this, coming week take up the Ghandi case or Mussolini case.)

Q. So propaganda was broadcast over your station in Java?

Mr. DeWolfe: Same objection, sir.

(Deposition of Suisei Matsui.)

The Court: Objection sustained.

(A. - That script came from headquarters. The rest of the time we rebroadcast news and the personal letters.)

Q. From the Japanese standpoint, what was the purpose of sending these prisoners' of war messages over the air?

Mr. DeWolfe: Object to that as calling for a conclusion, incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. The first time, if I wanted to get acquainted with the enemy station I have to give something.)

Q. In other words these prisoner of war messages were listener bait so people would listen to your station?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. I don't think it was bait, or something, because I like to do something to the prisoners because they were so poor. They have no way of communication, so-so, every time I tell war prisoners they can do anything. If they did not want to use my station they can——)

Q. In other words, this was a kind of a charitable practice on the part of the Japanese Government?

Mr. DeWolfe: Objected to as irrelevant, immaterial, incompetent.

The Court: Objection sustained.

(A. Not the Japanese Government idea. My own idea. Not the government. So I was sometimes

(Deposition of Suisei Matsui.)

called to headquarters by Tsuneishi and other violations for my station.)

Q. What did you mean when you said you wanted other stations to get acquainted with your station?

Mr. DeWolfe: Object to that as incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. They refused to follow the international law and so I tried to fight against them, the Japanese authorities who refused my suggestion so I told him, "This is my hour." If they did not like it—so I explained to the prisoners: "You can use answer, but if you write against Japanese or if you talk against Japanese, maybe this practice will be stopped and I will be called," and then they cannot use it. "So, I hope you use your brain and use whatever you like." So I give that hour to the prisoners. Every script that came up to me, without reading, I give them censor's pass, and headquarters thought that was bait, something for propaganda, so-so, so, afterwards, he call me to Tokyo to cooperate with the headquarters or Radio Tokyo hour to let the other stations listen in. They wanted to use my name. I have idea may pass for the humanity sake. Everybody knows that.

When the big trouble took place in Singapore I went there and all soldiers finished this script. I have it. I used to censor the scripts in Java and give them to the prisoners to take back to their countries as souvenirs. When I went to Singapore

(Deposition of Suisei Matsui.)

from Java, I said: "This is entirely for Red Cross purposes." Some of the officers came from Java, whom I did not remember. He took out the script which I sent and he told to the other prisoners: "Mr. Matsui okay, so you can read your letters to your home.")

* * *

Q. Mr. Matsui, you have testified that Major Tsuneishi carried his sword all the time. Was a sword part of the usual uniform of a field grade officer in the Japanese army?

Mr. DeWolfe: Objected to as immaterial, incompetent, sir.

The Court: Objection sustained.

(A. It is the usual uniform for the staff officer. String on shoulder, like this (witness points to right shoulder), and sword.)

Q. Did you ever see Tsuneishi take his sword out of the case and threaten anyone with it?

Mr. DeWolfe: Objected to as too general, incompetent, irrevelant and immaterial.

The Court: Objection sustained.

(A. No, I did not. In the headquarters?)

Q. No. Remove the sword from the case?

Mr. DeWolfe: Objected to as immaterial.

The Court: Objection sustained.

(A. No, no, no.)

Q. When did you leave the radio station?

Mr. DeWolfe: Go ahead.

A. May, 1945.

(Deposition of Suisei Matsui.)

Q. Was Buddy Uno still at the Bunka Camp when you left?

Mr. DeWolfe: Same objection.

Mr. Tamba: I beg your pardon.

Mr. DeWolfe: That is all right.

The Court: Objection sustained.

(A. Yes.)

Q. And he was there all the time you were there?

Mr. DeWolfe: Objected to as immaterial.

The Court: Objection sustained.

(A. Yes.)

Q. How many months before the end of the war did you leave for Shanghai?

Mr. DeWolfe: Objected to as immaterial, sir.

The Court: Objection sustained.

(A. May the same year.)

Q. How long were you in Shanghai before the war ended?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. Four months. I was in an internment camp in Shanghai about a year.)

Q. After the war was over?

Mr. DeWolfe: Objected to as immaterial.

The Court: Objection sustained.

(A. After the war. Next year I came back. War finished. I was in an internees' camp.)

Q. You worked in Shanghai from May, 1945, until the war ended?

Mr. DeWolfe: Go ahead, answer it.

A. Four months.

(Deposition of Suisei Matsui.)

Q. Mr. Uno was still in Bunka camp when you left here in May, 1945?

Mr. DeWolfe: Objected to as immaterial.

The Court: Objection sustained.

(A. Yes, I saw, I heard.)

Q. Mr. Matsui, when you returned to Tokyo you were supposed to take over—to take charge of the prisoner of war program?

Mr. DeWolfe: Objected to as incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. Here?)

Q. Yes.

Mr. DeWolfe: Object to that, improper.

The Court: Objection sustained.

(A. I think so.)

Q. Who stopped—

Mr. Collins: Withdraw that.

Q. Who stopped that?

Mr. DeWolfe: Objected to as incompetent.

The Court: Objection sustained.

(A. Tsuneishi is the big boss over here.)

Q. So as a result of that you and Major Tsuneishi became bitter enemies?

Mr. DeWolfe: Object to that as immaterial, incompetent.

The Court: Objection sustained.

(A. I think so. He never listened to me and in the beginning I think he refused to take me in the camp. So it took about two months before he gave me the certification paper.)

(Deposition of Suisei Matsui.)

(Whereupon the redirect examination of the above indicated deposition was read, Mr. Collins reading the questions and Mr. Tamba the answers.)

Redirect Examination

By Mr. Tamba:

Q. You are not mad at Tsuneishi, are you?

Mr. DeWolfe: Go ahead.

A. No. Well, a little bit I am mad.

Q. I refer to defendant's exhibit "9." I show you this (defendant's exhibit "9" is again handed to witness by counsel) was this written while you worked at the camp, in 1944?

Mr. DeWolfe: Go ahead.

A. I was—I didn't go to the camp. Murayama brought it to me.

Q. I show you a letter from Henshaw, stating "copy" (paper handed to witness by Mr. Tamba). You were away from the camp February 29, 1944?

Mr. DeWolfe: Answer it.

A. At the beginning I went to the camp and I used to meet them in the studio, but Uno did not like to have me over there.

Q. He did not like you at the camp?

Mr. DeWolfe: Objected to as irrelevant, immaterial.

The Court: Objection sustained.

(A. No.)

Q. After you came back you stayed home for a while?

(Deposition of Suisei Matsui.)

Mr. DeWolfe: Go ahead.

A. Yes.

Q. How long?

A. About half year. When I came back from Java I stayed in Japan about a year.

Mr. Collins: Now the document referred to then in question 17 on page 19 of this deposition was offered in evidence by the defense counsel without objection on the part of the prosecution, as defendant's Exhibit 10 in Matsui deposition.

Mr. Tamba: Correct.

Mr. DeWolfe: Objected to as incompetent, irrelevant, immaterial; something written in Batavia.

The Court: Objection will be sustained.

Mr. Collins: Now, I should like to read the certificate attached to the deposition of Suisei Matsui, which has been read into evidence.

(Whereupon certificate attached to above read deposition was read into the record by Mr. Collins.)

Mr. Collins: And in addition thereto, each page of the said deposition is signed at the base thereof by the deponent, Suisei Matsui.

Japan,

City of Tokyo,

American Consular Service—ss.

I do solemnly swear that I will truly and impartially take down in notes and faithfully tran-

scribe the testimony of Suisei Matsui, a witness now to be examined. So help me God.

/s/ MILDRED MATZ.

Subscribed and sworn to before me this 6th day of May, A.D. 1949.

/s/ THOMAS W. AINSWORTH,
Vice Consul of the
United States of America.

[American Consular Service Seal.]

Service No. 812a; Tariff No. 38; No fee prescribed. .

Japan,
City of Tokyo,
American Consular Service—ss.

CERTIFICATE

I, Thomas W. Ainsworth, Vice Consul of the United States of America in and for Tokyo, Japan, duly commissioned and qualified, acting under the authority of a certain stipulation for taking oral designation abroad, and upon order of the United States District Court, made and entered March 22, 1949, in the Matter of United States of America, Plaintiff, vs. Iva Ikuko Toguri D'Aquino, Defendant, pending in the Southern Division of the United States District Court, for the Northern District of California, and at issue between United States of America vs. Iva Ikuko Toguri D'Aquino, do hereby certify that in pursuance of the aforesaid stipulation and court order and at the request of Theo-

dore Tamba, counsel for the defendant Iva Ikuko Toguri D'Aquino I examined Suisei Matsui, at my office in Room 335, Mitsui Main Bank Building, Tokyo, Japan, on the sixth day of May A.D. 1949, and that the said witness being to me personally known and known to me to be the same person named and described in the interrogatories, being by me first sworn to testify the truth, the whole truth, and nothing but the truth in answer to the several interrogatories and cross-interrogatories in the cause in which the aforesaid stipulation, court order, and request for deposition issued, his evidence was taken down and transcribed under my direction by Mildred Matz, a stenographer who was by me first duly sworn truly and impartially to take down in notes and faithfully transcribe the testimony of the said witness Suisei Matsui, and after having been read over and corrected by him, was subscribed by him in my presence; and I further certify that I am not counsel or kin to any of the parties to this cause or in any manner interested in the result thereof.

In witness whereof, I have hereunto set my hand and seal of office at Tokyo, Japan, this twentieth day of May, A.D. 1949.

/s/ THOMAS W. AINSWORTH,
 Vice Consul of the
 United States of America.

[American Consular Service Seal.]

Service No. 951; Tariff No. 38; No fee prescribed.

[Endorsed]: Filed May 26, 1949.

In the Southern Division of the United States
District Court for the Northern District of
California

No. 31712 R

UNITED STATES OF AMERICA,

Plaintiff,

vs.

IVA IKUKO TOGURI D'AQUINO,

Defendant.

DEPOSITION OF
LESLIE SATORU NAKASHIMA

Deposition of Leslie Satoru Nakashima, taken before me, Thomas W. Ainsworth, Vice Consul of the United States of America, in Mitsui Main Bank Building, Room 335, in Tokyo, Japan, under the authority of a certain stipulation for taking oral designations abroad, and upon order of the United States District Court, made and entered March 22, 1949, in the Matter of the United States of America vs. Iva Ikuko Toguri D'Aquino, pending in the Southern Division of the United States District Court, for the Northern District of California, and at issue between the United States of America vs. Iva Ikuko Toguri D'Aquino.

The plaintiff, appearing by Frank J. Hennessy, United States District Attorney; Thomas DeWolfe, Special Assistant to the Attorney General, and Noel Storey, Special Assistant to the Attorney General,

and the defendant, appearing by Wayne N. Collins and Theodore Tamba.

The said interrogations and answers to the witness thereto were taken stenographically by Mildred Matz and were then transcribed by her under my direction, and the said transcription being thereafter read over correctly to the said witness by me and then signed by said witness in my presence.

It Is Stipulated that all objections of each of the parties hereto, including the objections to the form of the questions propounded to the witness and to the relevancy, materiality and competency thereof, and the defendant's objections to the use of the deposition, or any part of the deposition, by plaintiff, on the plaintiff's case in chief, shall be reserved to the time of trial in this cause.

LESLIE SATORU NAKASHIMA

of Tokyo, Japan, employed as United Press correspondent, of lawful age, being by me duly sworn, deposes and says:

Direct Examination

By Mr. Tamba:

Q. Mr. Nakashima, do you know a man by the name of Clark Lee? A. Yes.

Q. When and where did you first meet Mr. Lee?

A. I met Mr. Lee in about 1940.

Q. Do you know a man by the name of Brundage? A. Yes.

Q. When and where did you meet him?

(Deposition of Leslie Satoru Nakashima.)

A. Right after the Japanese surrender. When the first group of correspondents came into Tokyo.

Q. Who introduced you to Mr Brundage?

A. Clark Lee.

Q. Do you know Mr. Brundage's first name?

A. I don't remember now what his first name is.

Q. Were Mr. Brundage and Mr. Lee in Japan, or in Tokyo, prior to the entry of American troops, if you recall?

A. Well, I don't remember the two being here together. Mr. Lee [2*] was here before the war as an AP correspondent, but I don't remember Mr. Brundage.

Q. What was the occasion of your meeting with these two gentlemen after the surrender?

A. Why, Lee wanted to get hold of Tokyo Rose. He said here was a big story and liked me to help him get it.

Q. And you offered to help, to assist them in getting so-called Tokyo Rose? A. Yes.

Q. What did you then do?

A. So I went over to—I had heard about Tokyo Rose but I did not know who Tokyo Rose was so I went over to Radio Tokyo to find out and in the confusion right after the termination of the war there were several boys there and Ken Oki was there, whom I had known.

Q. Did you speak to Ken Oki?

A. Yes, I asked him who Tokyo Rose was.

* Page numbering appearing at bottom of page of original Reporter's Transcript.

(Deposition of Leslie Satoru Nakashima.)

Q. What did he tell you?

A. He said as far as they were concerned they had no Tokyo Rose. They never introduced any person as Tokyo Rose on their program and by program he was referring to what he called the Zero Hour program and there were five or six other girls on the program.

Q. Did he give you the name of Mrs. D'Aquino?

A. No. I asked him to get some of the girls and he gave me the name of Iva Toguri.

Q. What did you next do, Mr. Nakashima?

A. So I told Clark Lee that Radio Tokyo had told me that there was no single girl by the name of Tokyo Rose, that there were five or six girls, and how about it.

Q. What did Lee tell you, or Brundage?

A. Well, Lee did not give me any immediate answer. He told me he would think about it and later on, I don't know how many [3] hours elapsed, either he called me or I called him back, I don't remember, but he told me to go ahead and get Iva Toguri anyway and to offer her two thousand dollars for an exclusive story.

Q. Did you meet Iva Toguri after that?

A. No, I didn't even know where Toguri was living, Mrs. D'Aquino was living, but I knew her husband was working for Domei News and I inquired at Domei for his address, so I went over there early the next morning to D'Aquino's house.

Q. Did you meet Mrs. D'Aquino there?

(Deposition of Leslie Satoru Nakashima.)

A. Yes, she was home with her husband.

Q. What was said by you and what was said by her, if anything, at that time?

A. I told her that all the correspondents were very anxious to get hold of Tokyo Rose; that she was a big story, and she told me then that she was not Tokyo Rose; that there were other girls on the program, and I remember I told her the correspondents would come after her anyway and that it would be to her advantage to give the story to *Cosmopolitan Magazine* and make some money, I said, and I think her husband told her at the time that it might be a good idea to give an exclusive story because that would prevent her from being bothered by the other correspondents. That the other correspondents might not be so interested if she gave an exclusive story to the *Cosmopolitan Magazine*.

Q. What did you do then after you talked with Mrs. D'Aquino?

A. So I suggested that we all go to the Imperial Hotel where Clark Lee and Brundage were.

Q. So you went into his room at the Tokyo Hotel—

A. They invited me to this room on the second floor of the Imperial.

Q. Do you recall Mrs. D'Aquino telling both Brundage and Lee that she was not the only girl on the program?

A. I remember. Right at the outset she said she was not Tokyo [4] Rose; that there were other girls

(Deposition of Leslie Satoru Nakashima.)

on the program, and then a long interview followed.

Q. You did not remain continually in the room?

A. I was there maybe for a half hour.

Q. Then you left? A. Yes.

Q. Incidentally, some contract was prepared up there in the room? A. Yes.

Q. You were a witness to that contract?

A. Yes.

Q. You do not recall at this time what was in that contract, or do you?

A. Well, I don't remember the full details of the contract but she might have said that she was the only Tokyo Rose on the program.

Q. In the contract?

A. In the contract she might have. She signed a contract and the witnesses were her husband and myself.

Q. Before giving this testimony you talked with Mr. Noel Storey, did you not? A. Yes.

Q. Did he show you a contract? A. No.

Q. However, you recall that was the first thing she told Brundage and Clark, that she was not the only girl——

A. Yes, she said right at the outset she was not the only girl on the program.

Q. Did you have occasion to see Brundage a day or two following this interview?

Mr. DeWolfe: I object to that question and the following answer on the grounds that it is hearsay.

The Court: Objection sustained.

(Deposition of Leslie Satoru Nakashima.)

(A. He told me later that the whole thing was spoiled because she broke the contract by giving a mass interview to all the correspondents in Yokohama.)

Q. Mr. Nakashima, you have had occasion to interview Mrs. Toguri, [5] or D'Aquino several times since this date that you have just testified to?

A. Yes.

Q. Under what circumstances, will you tell us?

A. These were occasions when stories appeared in our cables from the States and we had to get local reaction from the person herself so I went over to interview her on two or three occasions. Two occasions I remember.

Q. What, if anything, in substance, did she tell you on this occasion—these occasions?

A. The first time I went there was when a story came over the wire that the Justice Department in Washington would take action against her for treason and she told me at that time that she would welcome a trial any time anywhere because she believed that she had committed no act of treason against the United States in that she had not prepared any script, and she said she had been in Sugamo Prison for a whole year and the FBI had ample opportunity to check her, investigate her, and had released her, and by that action she believed she had been given a clean bill of health.

Q. Did she tell you about anyone coaching her?

A. Yes, she said that—this she said at this interview, with Clark Lee at the hotel, that Major Cou-

(Deposition of Leslie Satoru Nakashima.)

sens had liked her voice and had coached her in broadcasting.

Q. Did she ever make a statement to you at any time or any place to the effect that she wanted a speedy trial before she lost contact with all of her witnesses, if you recall?

A. She said she wanted a speedy trial, but as far as about her fear of losing contact with witnesses, I don't remember.

Q. Incidentally, you were in Japan during the war, were you not, Mr. Nakashima?

A. Yes. [6]

Q. And you are a Nisei? A. Yes.

Q. And you are now a citizen and national of Japan, is that correct?

A. Yes, technically I am.

Q. Under what circumstances did you change your citizenship?

Mr. DeWolfe: Objected to as incompetent, irrelevant, and immaterial. There is a long answer about a page long.

The Court: Objection sustained.

(A. Well, when the war broke out I was an American without dual citizenship. Many Japanese with dual citizenship are considered Japanese subjects on Japanese soil, as far as the Japanese government is concerned; they did not consider the American side of it at all, but years before I had—while I was living in Hawaii I had expatriated myself from Japanese citizenship; originally I had

(Deposition of Leslie Satoru Nakashima.)

dual citizenship but I had expatriated myself from Japanese citizenship; there was a drive on in Hawaii at that time. They wanted all American-Japanese to be so-called one hundred per cent American and in the eyes of the Japanese government I was an American, and I had to register with the police for a residential permit over here; when the war broke out I was thrown in a very embarrassing position. Personally, I thought I—that they would come and intern me, but after searching my house they decided not to intern me and the police who had been in my district, making periodic rounds there before the war, advised me to get out Japanese citizenship because I might be thrown into prison and get into difficulties; also my wife was sick with tuberculosis and was in a sanitarium and I had a daughter two years old and another one only ten months old and I was their sole means of support, and since June, when the Japanese froze American assets I had not been getting any salary from New York, and I had a very tough time, and I could not get to see my bureau chief, the UP bureau chief, because he was interned and I had to begin looking for a job and the first thing I did was try to reduce expenses and I went to the sanitarium and transferred my wife from a first class to a third class [7] room and in December and January I tried to get jobs but nobody would give me a job because I was an American and I finally got a job with Domei News Agency in February,

(Deposition of Leslie Satoru Nakashima.)

after I had made application for so-called restoration of Japanese citizenship. They called it "family record." It is not called citizenship or anything like that. It is called "family record," and many Japanese firms require that to give employment.)

Q. Did you Niseis have a pretty hard time during the war?

Mr. DeWolfe: Objected to as incompetent, irrelevant, and immaterial, too general.

The Court: Objection sustained.

(A. Even after I had taken out Japanese citizenship the gendarme and thought police were after me all throughout the war.)

Q. You had a pretty difficult time all of you American-born Japanese, did you not, during the war?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(I certainly did. I had to go out and plead with the farmers to sell me food. It would be fantastic if I had to tell all the things we did.)

Cross-Examination

By Mr. Storey:

Q. When did you first meet the defendant?

A. That morning.

Q. Give us the date as closely as you can?

A. It must have been early in September of 1945.

Q. That was after the war was over?

(Deposition of Leslie Satoru Nakashima.)

A. Yes, when the first group of correspondents came in. The first plane came to Atsugi and the former correspondents who had been in Tokyo just disregarded orders. They just caught the electric train from Yokohama and came swarming into Tokyo, and I renewed my friendship with quite a few of the correspondents I had known.

Q. You had never heard of Iva Toguri prior to the time you talked with Lee?

A. I had heard at Domei where I worked that she was one of the—no, I had heard that she was—let's see now. I knew she worked for Domei listening post. The Domei had listening posts [8] for foreign broadcasts and she was one of the employees listening to the foreign broadcasts and transcribed them.

Q. Did you or didn't you know anything about what she did until after the war was over?

A. No.

Q. When you talked with Mr. Oki and asked who was known as Tokyo Rose——

A. I didn't say that. I asked for Tokyo Rose, simply.

Q. And who did he tell you Tokyo Rose was?

A. Well, he said that on the Zero Hour they never admitted having a Tokyo Rose and that they had never introduced any person as Tokyo Rose, but that they had five or six girls on the program.

Q. Did he give you the names of the other girls?

(Deposition of Leslie Satoru Nakashima.)

A. No. I asked him for names and he gave me Iva Toguri.

Q. That is the only one he gave you?

A. Yes, the only one.

Q. And that is the only checking you did to find Tokyo Rose?

A. That is all I did. I explained to Lee that there were five or six girls.

Q. Did you contact anyone but Miss Toguri?

A. No, I didn't.

Q. Approximately how long did you stay in the room with Mr. Lee and Mr. Brundage?

A. About one-half hour only.

Q. Was that the only time you were ever present when Miss Toguri was being interviewed by Lee and Brundage?

A. Yes.

Q. Did you sign this contract as a witness or did your name just appear on this paper.

A. I think I signed it.

Q. Don't you know? Did you or didn't you sign it?

A. Yes, I signed it. [9]

Redirect Examination

By Mr. Tamba:

Q. While you were present in the Imperial Hotel was she offered a check by Brundage?

A. Yes, but she refused to take it. She said she didn't want it.

/s/ LESLIE NAKASHIMA.

Japan,
City of Tokyo,
American Consular Service—ss.

I do solemnly swear that I will truly and impartially take down in notes and faithfully transcribe the testimony of Leslie Satoru Nakashima, a witness now to be examined. So help me, God.

/s/ MILDRED MATZ.

Subscribed and sworn to before me this 2nd day of May, A.D. 1949.

/s/ THOMAS W. AINSWORTH,
Vice Consul of the United
States of America.

[American Consular Service Seal.]

Service No. 732a; Tariff No. 38; No fee prescribed.

Japan,
City of Tokyo,
American Consular Service—ss.

CERTIFICATE

I, Thomas W. Ainsworth, Vice Consul of the United States of America in and for Tokyo, Japan, duly commissioned and qualified, acting under the authority of a certain stipulation for taking oral designations abroad, and upon order of the United States District Court, made and entered March 22, 1949, in the Matter of United States of America, Plaintiff, vs. Iva Ikuko Toguri D'Aquino, Defendant, pending in the Southern Division of the United States District Court, for the Northern District of California, and at issue between United States of

America vs. Iva Ikuko Toguri D'Aquino, do hereby certify that in pursuance of the aforesaid stipulation and court order and at the request of Theodore Tamba, counsel for the defendant Iva Ikuko Toguri D'Aquino I examined Leslie Satoru Nakashima, at my office in Room 335, Mitsui Main Bank Building, Tokyo, Japan, on the second day of May, A.D. 1949, and that the said witness being to me personally known and known to me to be the same person named and described in the interrogatories, being by me first sworn to testify the truth, the whole truth, and nothing but the truth in answer to the several interrogatories and cross-interrogatories in the cause in which the aforesaid stipulation, court order, and request for deposition issued, his evidence was taken down and transcribed under my direction by Mildred Matz, a stenographer who was by me first duly sworn truly and impartially to take down in notes and faithfully transcribe the testimony of the said witness Leslie Satoru Nakashima; and I further examined the said witness Leslie Satoru Nakashima at my office in the Mitsui Main Bank Building, Tokyo, Japan, on the twelfth day of May, A.D. 1949, at the request of the aforesaid Theodore Tamba, counsel for the defendant, and upon proper notice given in my presence by the said Theodore Tamba, counsel for the defendant, to Noel Storey, Special Assistant to the Attorney General, appearing for the plaintiff, on the second day of May, A.D. 1949; and the said Noel Storey having due notice that the counsel for the defendant desired to put to the witness Leslie Sa-

toru Nakashima the question appearing in lines 2 and 3 on page 10 of the attached transcript of the deposition of Leslie Satoru Nakashima, thereafter not appearing at the time of the further examination of the said witness Leslie Satoru Nakashima on the twelfth day of May, A.D. 1949; and the said witness, being by me first sworn to testify the truth, the whole truth, and nothing but the truth in answer to the further interrogatory of which notice had been duly given, his evidence was taken down and transcribed under my direction by Martha Vaughan Winn, a stenographer, who was by me first duly sworn truly and impartially to take down in notes and faithfully transcribe the further testimony of the said witness Leslie Satoru Nakashima; and the transcript of the evidence of the said witness, including the evidence given at the time of the further examination on the twelfth day of May, A.D. 1949, having been read over and corrected by him, was subscribed by him in my presence; and I further certify that I am not counsel or kin to any of the parties to this cause or in any manner interested in the result thereof.

In witness whereof, I have hereunto set my hand and seal of office at Tokyo, Japan, this 16th day of May, A.D. 1949.

/s/ THOMAS W. AINSWORTH,
Vice Consul of the United
States of America.

[American Consular Service Seal.]

Service No. 899; Tariff No. 38; No fee prescribed.

[Endorsed]: Filed May 21, 1949.

In the Southern Division of the United States
District Court for the Northern Division of
California

No. 31712 R

UNITED STATES OF AMERICA,

Plaintiff,

vs.

IVA IKUKO TOGURI D'AQUINO,

Defendant.

DEPOSITION OF TOSHIKATSU KODAIRA

Deposition of Toshikatsu Kodaira, taken before me, Thomas W. Ainsworth, Vice Consul of the United States of America, in Mitsui Main Bank Building, Room 335, in Tokyo, Japan, under the authority of a certain stipulation for taking oral designations abroad, and upon order of the United States District Court, made and entered March 22, 1949, in the Matter of the United States of America, vs. Iva Ikuko Toguri D'Aquino, pending in the Southern Division of the United States District Court, for the Northern District of California, and at issue between the United States of America vs. Iva Ikuko Toguri D'Aquino.

The plaintiff, appearing by Frank J. Hennessy, United States District Attorney; Thomas DeWolfe, Special Assistant to the Attorney General, and Noel Storey, Special Assistant to the Attorney General, and the defendant, appearing by Wayne N. Collins and Theodore Tamba.

The said interrogations and answers to the witness thereto was taken stenographically by Mildred Matz and were then transcribed by her under my direction, and the said transcription being thereafter read over correctly to the said witness by me and then signed by said witness in my presence.

It is Stipulated that all objections of each of the parties hereto, including the objections to the form of the questions propounded to the witness and to the relevancy, materiality and competency thereof, and the defendant's objections to the use of the deposition, or any part of the deposition, by plaintiff, on the plaintiff's case in chief, shall be reserved to the time of trial in this case.

TOSHIKATSU KODAIRA

of Tokyo, Japan, of lawful age, being by me duly sworn, deposes and says:

Direct Examination

By Mr. Tamba:

Q. Mr. Kodaira, what is your present employment or occupation?

A. I am a reporter for the Associated Press Tokyo branch office.

Q. Where were you born?

A. I was born at 19 Rokken-cho, Wakuyamachi, Tota-Gun, Miyagi Prefecture, Japan.

Q. And you are a citizen and a national of Japan, is that correct? A. Right.

Q. Have you ever lived in the United States?

A. Yes.

Q. Do you know for how many years?

A. For about ten years.

(Deposition of Toshikatsu Kodaira.)

Q. How old were you when you first went to the United States?

A. Oh, about five years old.

Q. When did you return to Japan?

A. February, 1918.

Q. And have resided in Japan continually since that date? A. Ever since.

Q. What was your occupation during the war?

A. I was an employee of the foreign office.

Q. That is the Japanese Foreign Office?

A. Japanese Foreign Office.

Q. What were your duties, if any, during that time?

A. Monitoring foreign short wave broadcasts.

Q. Do you know a man by the name of H. Yagi?

A. Yes.

Q. How long have you known Mr. Yagi?

A. Since 1938.

Q. Do you know a man by the name of Harry Brundage? A. Well, I only met him twice.

Q. Will you tell us under what circumstances you met Harry Brundage.

Mr. DeWolfe: Objected to as incompetent, irrelevant and immaterial.

The Court: Submitted?

Mr. Collins: Yes.

The Court: Objection sustained.

(A. Shall I start from the point when Yagi phoned me up?)

(Deposition of Toshikatsu Kodaira.)

Q. Yes.

Mr. DeWolfe: I object to the answer which contains a lot of hearsay.

The Court: Objection sustained.

(A. One day, I forget the exact date, Mr. H. Yagi phoned me up at my office. He hollered into the phone: "Tosh, don't you want a trip to the United States"? Of course, I was so astonished I could not readily answer.)

Q. After that phone call did you meet Mr. Yagi by some arrangement?

Mr. DeWolfe: Objected to as incompetent, irrelevant and immaterial.

The Court: Sustained.

(A. He told me to meet him at the St. Paul's Club.)

Q. And did you meet him at the St. Paul's Club?

Mr. DeWolfe: Objected to.

The Court: Sustained.

(A. I did.)

Q. Then what was said between you and Mr. Yagi?

Mr. DeWolfe: Objected to as incompetent, irrelevant and immaterial.

The Court: Sustained.

(A. Then he said he knew a fellow named Harry Brundage.)

Q. Did he tell you how long he had known Mr. Brundage?

Mr. DeWolfe: Objected to as hearsay, incompetent, irrelevant and immaterial.

(Deposition of Toshikatsu Kodaira.)

The Court: Objection sustained.

(A. He told me he knew Mr. Brundage before the war.)

Q. What else did he tell you about Mr. Brundage?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. He said he was very friendly with the Brundage family.)

Q. Did he tell you that Mr. Brundage was in Japan, when you were talking to him?

Mr. DeWolfe: Objected to—no foundation laid—hearsay—immaterial and irrelevant.

The Court: Objection sustained.

(A. Yes.)

Q. Did he tell you where Mr. Brundage was?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. Yes.)

Q. Where did he say Mr. Brundage was?

Mr. DeWolfe: Objected to as hearsay and incompetent, irrelevant and immaterial.

The Court: Sustained.

(A. At the Dai Iti Hotel.)

Q. Did he tell you the purpose of Mr. Brundage's presence in Japan?

Mr. DeWolfe: Objected to as hearsay and incompetent.

The Court: Sustained.

(A. Yes.)

(Deposition of Toshikatsu Kodaira.)

Q. What was that purpose?

Mr. DeWolfe: Objected to as calling for the conclusion of the witness and hearsay.

The Court: Sustained.

(A. He said it was to find witnesses.)

Q. For what case?

Mr. DeWolfe: Objected to as incompetent and hearsay.

The Court: Sustained.

(A. Tokyo Rose case.) [2*]

Q. And did you and Yagi thereafter meet Brundage?

Mr. DeWolfe: Objected to as hearsay.

The Court: Indicate for the record the purpose of this testimony.

Mr. Collins: The purpose of this testimony is to show that Harry Brundage who had gone to Japan with his transportation paid by the Attorney General or the Department of Justice for the purpose of interviewing the defendant.

The Court: Just a minute. Where do you get that? Where is there anything in the record about that?

Mr. Collins: I say that is the purpose.

The Court: How can you make that statement?

Mr. Collins: That is a correct statement, Your Honor.

The Court: Does the record disclose that?

Mr. Collins: Page 620 of the reporter's tran-

* Page numbering appearing at top of page of original Reporter's Transcript.

(Deposition of Toshikatsu Kodaira.)

script of Friday, July 5, 1949, contains a question addressed to Mr. John B. Hogan, and I will read from page 619:

“Q. When did you arrive in Tokyo?”

“A. I am not certain, but about the 21st or 22nd, I would say. I think we took about four or five days to get there.

“Q. About the 22nd day of March?”

“A. About the 22nd day of March, 1948.

“Q. Now, Mr. Hogan, Mr. Brundidge was quartered with you at the Dai Ichi Hotel, too, was he not? A. Yes.”

Mr. Collins: These questions were propounded by me.

The Court: What was the purpose, just to establish that fact?

Mr. Collins: No, I had to do that to fix the date.

The Court: All right.

Mr. Collins: Of his being sent there.

The Court: All right.

Mr. Collins: “Q. Yes. You were sent there to investigate the defendant, were you, in Japan?”

“A. No, not as broadly as that. I went there to conduct a general investigation. I went out there for a specific [3] purpose.

“Q. And the specific purpose was to interrogate the defendant.

“A. Not to interrogate the defendant, no, to merely secure the signature to the already existing

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document. I did not interrogate her as to her activities.

“Q. In other words, your instructions from the Attorney General were to secure the signature of the defendant to U. S. Exhibit No. 15 which has just been introduced in evidence, is that correct”?

Mr. Collins: May I get U. S. Exhibit No. 15? I will produce that in just a moment to show Your Honor what that exhibit is, and then the answer was:

“A. That was one of my instructions.

“Q. So far as the defendant was concerned, they were your only instructions, weren't they?

“A. As far as any contact with the defendant was concerned yes, sir.”

Now, let me go on to—and the question, coming now from page 610, relating to the interview by Mr. Brundidge and Mr. John B. Hogan of the defendant on March 26, 1948, reading from page 610 of the reporter's transcript; this was put on direct examination by Mr. DeWolfe:

“Q. Did you have a conversation with her at that time and place? A. Yes, sir.

“Q. Who were present at the conversation?

“A. Mrs. Ahn, Mr. Brundidge, the defendant and myself.”

Then the transcript shows the conversation.

Now, directing Your Honor's attention to page 630 of the very same reporter's transcript, of July

(Deposition of Toshikatsu Kodaira.)

15, 1949, a question addressed by me to Mr. John B. Hogan:

“Q. Did Mr. Brundidge accompany you to Japan as an agent for the Attorney General?”

“A. No, sir. [4]

“Q. Did the Attorney General bear the expense of your transportation to Tokyo?”

“A. The plane fare was paid for by the Department of Justice, yes, sir.

“Q. So you went to Tokyo at that time at the expense of the government?”

“A. Only in so far as the plane was concerned, nothing else.

“Q. Had you instructed him to accompany you to Tokyo? A. No, sir.

“Q. Had the Attorney General?”

“A. I think it was the reverse. He offered to go and the Attorney General accepted his offer.”

The Court: Read the last question and I will rule.

The Reporter: The previous question was reported by Mr. Sherry, Your Honor. I do not have it.

Mr. Tamba: I think the last question was: “And did you and Yagi thereafter meet Brundidge”?

Mr. Collins: Yes.

Q. And did you and Yagi thereafter meet Brundidge?

Mr. DeWolfe: Objected to as incompetent, irrelevant and immaterial, no foundation having been laid.

(Deposition of Toshikatsu Kodaira.)

The Court: Objection will be sustained.

(A. Yes, the very next day.)

Q. Where and under what circumstances?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. Ten o'clock the next morning I met Yagi in front of the Dai Iti Hotel and Yagi called Mr. Brundage down from his room. He introduced me. Mr. Brundidge and I shook hands. He was very polite. He called us up into his room.)

(Whereupon the reading of the deposition was resumed, the questions being read by Mr. Collins and the answers by Mr. Tamba.) [5]

Q. Did Mr. Brundidge give either you or Yagi some whisky while you were in the room?

Mr. DeWolfe: Object to that as incompetent, irrelevant and immaterial.

The Court: Objection sustained. Let it go out and let the jury disregard it for any purpose in this case.

(A. Yes, we took a couple of drinks.)

Q. Then what was said by Brundidge, if anything.

Mr. DeWolfe: Objected to as hearsay, immaterial, incompetent.

The Court: Objection sustained.

(A. Well, he suggested that "you and Yagi just saw and heard Tokyo Rose broadcasting.")

Q. Did he suggest the time and place and the

(Deposition of Toshikatsu Kodaira.)

circumstances under which you heard her broadcast?

Mr. DeWolfe: Object to that as hearsay, incompetent and irrelevant.

The Court: Objection sustained.

(A. Yes, a little after the March bombing.)

Q. Did he suggest to you anything that she might have broadcast on that occasion?

Mr. DeWolfe: Object to that as immaterial, hearsay, incompetent.

The Court: Objection sustained.

(A. Yes.)

Q. What was that suggestion?

Mr. DeWolfe: Object to that as irrelevant, incompetent, hearsay.

The Court: Same ruling.

(A. That we heard Tokyo Rose broadcasting: "Soldiers, your wives are out with the war workers.")

Q. What did you say to Brundidge after he suggested that to you?

Mr. DeWolfe: Object to that as hearsay, incompetent and irrelevant.

The Court: Objection sustained.

(A. I told him it was very serious to stand as a witness so I could [6] not make up my mind immediately. I told him I had to think it over.)

Q. What did Mr. Brundidge say to you then?

Mr. DeWolfe: Same objection, sir.

The Court: Same ruling.

(A. "All right.")

(Deposition of Toshikatsu Kodaira.)

Q. Did he suggest that you go home and think it over, if you recall?

Mr. DeWolfe: Same objection.

The Court: Objection sustained.

(A. That point I don't remember.)

Q. Did you make arrangements to meet Brundidge thereafter?

Mr. DeWolfe: Object to that as incompetent and hearsay, sir.

The Court: Objection sustained.

(A. Yes.)

Q. When did you arrange this meeting with Brundidge?

Mr. DeWolfe: Object to that as immaterial, incompetent, hearsay.

The Court: Objection sustained.

(A. The next day, about the same time, at the Dai Iti Hotel.)

Q. During that first conversation who were the persons present in that hotel room?

Mr. DeWolfe: Object to that as irrelevant, incompetent, immaterial, sir.

The Court: Objection sustained.

(A. Yagi, Mr. Brundidge and me.)

Q. Did you ever meet Mr. Hogan, who is connected with the Department of Justice.

Mr. DeWolfe: Just a moment, no objection.

The Court: You may answer.

A. No.

Q. Did you have reason to believe that Mr.

(Deposition of Toshikatsu Kodaira.)

Hogan was present in Japan at the time Brundidge was there? [7]

Mr. DeWolfe: Object to that as calling for a conclusion.

The Court: Objection sustained.

(A. Oh, Yagi told me about him.)

Q. But you never met Hogan?

Mr. DeWolfe: Go ahead.

A. No.

Q. Did you return the next day, after the first conversation with Brundidge? Did you return to his hotel?

Mr. DeWolfe: Object to that as incompetent, irrelevant, and immaterial.

The Court: Objection sustained.

(A. Yes, the next day, around ten.)

Q. Where did you go?

Mr. DeWolfe: Object to that as irrelevant, incompetent, and immaterial.

The Court: Objection sustained.

(A. His room.)

Q. It was the same room.

Mr. DeWolfe: Same objection, your Honor.

The Court: Same ruling.

(A. Yes.)

Q. What was said by Brundidge, you, or by Yagi?

Mr. DeWolfe: Object to that as irrelevant, hearsay, incompetent.

The Court: Objection sustained.

(Deposition of Toshikatsu Kodaira.)

(A. I told him I made up my mind and that I am not going.)

Q. Did you mention anything to him about who Tokyo Rose might be?

Mr. DeWolfe: Object to that as hearsay, depriving the United States of the right of confrontation, incompetent.

The Court: Objection sustained.

(A. Yes, I told him that Tokyo Rose was a group of girls and Iva was only one of them.)

Q. What did he do then?

Mr. DeWolfe: Object to that as incompetent, irrelevant and immaterial.

The Court: Objection sustained. [8]

(A. Then he took a book from the shelf, it was a black cloth-covered book, I didn't see the name of the book or the author but I thought it was Clark Lee's book, and in that book he had a line underlined with pencil which said, I forgot the exact words, but it showed how Tokyo Rose came out and said, "I am Tokyo Rose.")

Q. Incidentally, when you left Brundidge's room, after the first meeting, what, if anything, did he give you?

Mr. DeWolfe: Objected to as incompetent, irrelevant.

The Court: Objection sustained.

(A. Oh, he gave me a half-finished bottle of whiskey. When I was going out he gave me a suit.)

(Deposition of Toshikatsu Kodaira.)

Q. Suit of clothing, you mean?

Mr. DeWolfe: Object to that as incompetent, immaterial.

The Court: Objection sustained.

(A. Suit of clothing.)

Q. Did he say, in substance, as follows, as you left the room, after the first meeting: "You two get together and think it over"?

Mr. DeWolfe: Objected to as hearsay, incompetent, immaterial.

The Court: Objection sustained.

(A. "You two get together and think it over.")

Q. That is, to you and Yagi?

Mr. DeWolfe: Objected to as hearsay, and no proper foundation having been laid, incompetent.

The Court: Objection sustained.

(A. At the first session or during the first session?)

Q. Yes.

Mr. DeWolfe: Same objection, sir.

The Court: Same ruling.

(A. Yes, he told us that.)

Q. And when he said "You two get together," he meant you and Yagi?

Mr. DeWolfe: Object to that, no foundation having been laid, hearsay, incompetent.

The Court: Objection sustained. [9]

(A. Yes.)

Q. And when you told him the next day you had made up your mind, did you tell him why?

(Deposition of Toshikatsu Kodaira.)

Mr. DeWolfe: Objected to as hearsay, incompetent, no proper foundation having been laid.

The Court: Objection sustained.

(A. Yes.)

Q. What did you tell him?

Mr. DeWolfe: Objected to as hearsay, incompetent.

The Court: Objection sustained.

(A. I told him I was a Christian Pastor's son and that it was against my fundamental principles to tell any lies.)

Q. What did Brundidge do when you said that?

Mr. DeWolfe: Objected to as incompetent, irrelevant, immaterial, hearsay.

The Court: Objection sustained.

(A. He just nodded.)

Q. Did he shrug his shoulders, do you recall?

Mr. DeWolfe: Object to that as hearsay, calling for a conclusion, incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. Well, that I don't know.)

Q. Did he say: "All right, it is up to you?"

Mr. DeWolfe: Objected to as hearsay, incompetent, irrelevant and immaterial, no foundation having been laid.

The Court: Keeping in mind the rulings of the court, it is clearly a case of hearsay testimony here, counsel.

Mr. Collins: Is your Honor making a ruling?

(Deposition of Toshikatsu Kodaira.)

The Court: The objection is sustained.

(A. Yes.)

Q. Do you recall him saying that.

Mr. DeWolfe: Objected to as incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. Yes, I do.) [10]

Q. Then what did you and Yagi do?

Mr. DeWolfe: Objected to as incompetent, irrelevant and immaterial, no foundation having been laid.

The Court: Objection sustained.

(A. We came out of his room, out of the Dai Iti Hotel, and Yagi and I entered a Japanese tea parlor, a coffee house, I think you call it, had a cup of coffee together.)

Q. What was said by you and what was said by Yagi at that place?

Mr. DeWolfe: Objected to as hearsay, irrelevant, immaterial and incompetent.

The Court: Objection sustained.

(A. I told Yagi that "Damn you. We didn't contact each other during the war, and it was almost impossible for outsiders to get into the Radio Tokyo building, much less the studio where the broadcasting was going on." Then I told him, Yagi, how serious it was to be a witness especially in a case like this. Yagi told me, after hearing what I said and what I explained to him, he said he decided not to go, too.)

Q. Did he at that time make a statement, in

(Deposition of Toshikatsu Kodaira.)

substance, to the effect that he got a trip, or words to that effect?

Mr. DeWolfe: Objected to as hearsay, incompetent, irrelevant and immaterial.

The Court: Is there any doubt in your mind, counsel, that this is not hearsay testimony?

Mr. Collins: It isn't that, your Honor; I think that matter was just argued before your Honor by Mr. Olshausen, and it is my frank opinion that it is clearly admissible testimony, going—

The Court: It is hearsay. Now that you have a record on it, and it seems to me it is sufficient for all purposes. I don't want to deny you any legal position that you take here in this case, but it is obvious to me, and I think should be to you, that this is clearly hearsay testimony. I say that advisedly to you.

Mr. Collins: Well, I have no alternative, if your Honor please, save and except to read the deposition, to have your Honor make what rulings your Honor sees fit to make. [11]

The Court: Very well, that is a matter entirely for you. But I have clearly indicated the legal position of the court. That gives you an opportunity, if I am in error in my ruling, to—it saves your position in the matter. I can't do any more than that.

Mr. Collins: Well, it may be that there are questions, and I assume there are, that your Honor would make a favorable ruling to in here.

(Deposition of Toshikatsu Kodaira.)

The Court: Well, if there are, go through them.

Mr. Collins: Well, I mean, I can't very well do that, because it is a question here of also having a record.

The Court: All right, proceed.

Q. Did you later learn that Yagi went to the United States?

Mr. DeWolfe: Objected to as hearsay, incompetent and irrelevant.

The Court: Objection sustained.

(A. Yes.)

Q. To testify as a witness before grand jury proceedings?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. Yes.)

Q. State under what circumstances you learned that.

Mr. DeWolfe: Objected to as hearsay, incompetent.

The Court: Objection sustained.

(A. One Sunday, my very good friend Toshio Yamanouchi, the foreign editor of the Tokyo Shinbun, he usually comes to my house for a Sunday bath, so he must have seen Yagi Saturday night at the Japanese Press Club—Yagi told Yamanouchi that he was leaving for the United States.)

Q. Do you know a man by the name of Jim

(Deposition of Toshikatsu Kodaira.)

Woods or James Woods connected with the United States Provost Marshal?

Mr. DeWolfe: Go ahead.

A. Yes, I came to know him before Yagi came back from the United States.

Q. Under what circumstances did you meet Mr. James Woods?

Mr. DeWolfe: Objected to as incompetent, irrelevant, immaterial. [12]

The Court: Objection sustained.

(A. I was working in my office when he came in and introduced himself as being a very good friend of Yagi's.)

Q. What was said between you and Mr. Woods, in substance?

Mr. DeWolfe: Objected to as hearsay, incompetent.

The Court: Objection sustained.

(A. In substance, he wanted me to go to the United States.)

Q. Did he tell you with reference to what?

Mr. DeWolfe: Objected to as hearsay, incompetent.

The Court: Objection sustained.

(A. Yes, in the Tokyo Rose case.)

Q. You tell us, in substance, if you recall, what was said by Mr. Woods and what was said by you on that occasion. He mentioned Mr. Yagi's name to you?

Mr. DeWolfe: Objected to as immaterial, incompetent, irrelevant, hearsay.

(Deposition of Toshikatsu Kodaira.)

The Court: Objection sustained.

(A. Yes.)

Q. What did he say about Yagi?

Mr. DeWolfe: Objected to as hearsay, irrelevant and incompetent.

The Court: Objection sustained.

(A. He said he was very fond of Yagi. Very friendly with him on the way to the United States.)

Q. Did he ask you if you knew Yagi?

Mr. DeWolfe: Objected to as hearsay, incompetent.

The Court: Objection sustained.

(A. No, he introduced himself as a very good friend of Yagi.)

Q. Did Mr. Woods ask you if you knew Yagi?

Mr. DeWolfe: Objected to as hearsay.

The Court: Objection sustained.

(A. Yes.)

Q. Did you answer him yes or no? [13]

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. I said "Yes.")

Q. What did he ask you with reference to Yagi, with reference to this case, and I am speaking of the occasion in your office in Radio Tokyo, when you were talking to Mr. Woods?

Mr. DeWolfe: Objected to as incompetent, hearsay.

The Court: Objection sustained.

(Deposition of Toshikatsu Kodaira.)

(A. He wanted me to say, yes, or no, if I was going with him to the United States.)

Q. Who, Mr. Woods?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. Yes.)

Q. Did he ask you with reference to what?

Mr. DeWolfe: Objected to as hearsay, your Honor.

The Court: Objection sustained.

(A. On this Tokyo Rose case.)

Q. What did you say to Mr. Woods at that time?

Mr. DeWolfe: Objected to as hearsay.

The Court: Objection sustained.

(A. Well, I didn't say, yes, or no, immediately.)

Q. What were your reasons for not answering, yes, or not?

Mr. DeWolfe: Objected to as calling for a conclusion, hearsay, incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. I thought the reason I should not commit myself was this. If I said "Yes," I would be working against my principles. I would be telling lies. If I said: "No," I might hurt Yagi.)

Q. So you didn't give Mr. Woods an immediate answer?

Mr. DeWolfe: Same objection, sir.

The Court: Same ruling.

(Deposition of Toshikatsu Kodaira.)

(A. No.)

Q. Did you seek any independent advice regarding the answer you should give Mr. Woods? [14]

Mr. DeWolfe: Go ahead.

A. Yes.

Q. From whom did you seek that advice?

Mr. DeWolfe: Objected to as incompetent, irrelevant, immaterial, hearsay.

The Court: Objection sustained.

(A. I sought advice from Mrs. Tom Lambert.)

Q. Who is she?

Mr. DeWolfe: Objected to as incompetent, irrelevant, hearsay, immaterial.

The Court: Objection sustained.

(A. She is the wife of Tom Lambert, an Associated Press correspondent in Tokyo.)

Q. What did Mrs. Lambert tell you?

Mr. DeWolfe: Same objection, if the Court please.

The Court: Objection sustained.

(A. She told me to tell the truth.)

Q. And after you talked to Mrs. Lambert, what did you do?

Mr. DeWolfe: Objected to as incompetent, irrelevant, and immaterial.

The Court: Objection sustained.

(A. Jimmie Woods called me in his office and I gave him the statement.)

Q. What was the substance of the statement you gave Mr. Woods?

(Deposition of Toshikatsu Kodaira.)

Mr. DeWolfe: Object to that and not the best evidence, hearsay.

The Court: Objection sustained.

(A. That it was not with Yagi that I saw this broadcast.)

Q. Later you were confronted with Mr. Yagi?

Mr. DeWolfe: Objected to as incompetent, irrelevant, and immaterial.

The Court: Objection sustained.

(A. Yes.)

Q. And what, if anything, did Yagi do at that time and place?

Mr. DeWolfe: Objected to as incompetent, hearsay.

The Court: Same ruling.

(A. Woods said: "Tosh says Yagi was not with him during the broadcast.") [15]

Q. What did Yagi say.

Mr. DeWolfe: Objected to as incompetent.

The Court: Same ruling.

(A. Then Woods says: "Yagi says that Tosh was with him during the broadcast. Which is right? I told Jim "Yagi will answer." Yagi admitted that he was not with me.)

Q. Going back to the meeting with Brundidge at the Dai Iti Hotel, did he ask you if you knew a man by the name of Ken Oki?

Mr. DeWolfe: Same objection, sir.

The Court: Same ruling.

(A. Yes, he did.)

(Deposition of Toshikatsu Kodaira.)

Mr. DeWolfe: Objected to as hearsay, sir.

The Court: Same ruling.

(A. I said I did not know him.)

Q. Mr. Kodaira, you have met Mr. Tilman of the Federal Bureau of Investigation?

Mr. DeWolfe: Go ahead.

A. I have, once.

Q. And you have not told him what you have told us here this morning?

Mr. DeWolfe: Objected to as incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. Correct.)

Q. When you met him, he asked you what you knew about the Toguri case?

Mr. DeWolfe: Objected to as hearsay.

The Court: Objection sustained.

(A. That's correct.)

Q. And he told you that he wanted to see you again about Mr. Yagi at some later date?

Mr. DeWolfe: Same objection, sir.

The Court: Same ruling.

(A. Yes.)

Q. Do you know a man by the name of Tomatsu Murayama?

Mr. DeWolfe: Go ahead.

A. Yes, I do.

Q. Do you know what connection, if any, he had with Camp Bunka? A. I didn't get that.

(Deposition of Toshikatsu Kodaira.)

Q. Do you know what connection, if any, he had with Camp Bunka?

Mr. DeWolfe: Objected to as incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. Oh, Camp Bunka, yes, he was there to analyze monitor broadcasts and at the same time criticize the propaganda line adopted by JOAK.)

Q. Did he ever complain to you about the treatment of prisoners of war at Camp Bunka?

Mr. DeWolfe: Same objection, hearsay, sir.

The Court: Same ruling.

(A. Oh, he did, many times.)

Q. Do you know a man by the name of Major Tsuneishi?

Mr. DeWolfe: Go ahead.

A. Yes.

Q. You met him on April 26 of this year, is that correct? A. Correct.

Q. Where did you meet him?

A. Oh, he was waiting in front of Radio Tokyo building and came up to the A.P. office with me.

Q. And he later came to your home on the 27th?

A. That's right.

Q. Did you talk to him on the 26th in Radio Tokyo? A. Not much.

Q. Well, did a man by the name of Ken Ishii approach Major Tsuneishi and you?

A. He approached me, I should say, approached Tsuneishi.

(Deposition of Toshikatsu Kodaira.)

Q. What did he say to Tsuneishi?

A. Told him that the witnesses should not contact the defense.

Q. Did the name of Major Cousens come up in the conversation between you and Major Tsuneishi? [17]

A. Yes.

Q. State whether or not Major Tsuneishi at that time and place, either the 26th or the 27th, said to you that he actually ordered Major Cousens to broadcast over the radio?

Mr. DeWolfe: Objected to as hearsay.

The Court: Objection sustained.

(A. He did.)

Q. Did he state to you that he had made a contrary statement on some other occasion?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. Yes, he did.)

Q. Did he say why he made that contrary statement?

Mr. DeWolfe: Objected to as hearsay, incompetent, irrelevant, immaterial, a long answer involving hearsay, sir.

The Court: Sustained.

(A. Yes, Major Cousens' name came up during the conversation we had at my home. I told Tsuneishi that I had great respect for Major Cousens. Tsuneishi said he regretted he did a very sorry thing against Major Cousens. He explained the reasons that while Major Cousens was on trial

(Deposition of Toshikatsu Kodaira.)

in Australia, an Australian investigator came and asked Tsuneishi whether or not Tsuneishi ordered Major Cousens to broadcast. Tsuneishi said he denied he had given any orders. He regretted that very much. He did it because he thought he would implicate his senior officers.)

Q. Who were his senior officers, if you remember?

Mr. DeWolfe: Go ahead.

A. Colonel Nagai and General Arisue, and then Field Marshal Gen. Sugiyama.

Q. In other words, the reason why he denied it at that time, that is giving Cousens orders to broadcast was that he might implicate his senior officers?

Mr. DeWolfe: Object to that as calling for a conclusion, incompetent, irrelevant and immaterial.

The Court: Objection sustained. [18]

(A. That's right.)

Q. Do you recall a broadcast coming over Radio Tokyo about the time of the battle of the Leyte Gulf regarding the loss of ships?

Mr. DeWolfe: Go ahead.

A. Yes, I do.

Q. Who broadcast that information, if you know? A. It was Joe Hirakawa.

Q. Was that broadcast somewhat confused?

A. It was greatly confused.

Q. In what respect?

A. Hirakawa sank two more Japanese battleships than was necessary.

(Deposition of Toshikatsu Kodaira.)

Q. Did you later hear a shortwave station in San Francisco on the subject?

A. Yes, then came a hit-back.

Q. What did it say?

Mr. DeWolfe: Objected to as hearsay, incompetent, irrelevant and immaterial.

The Court: The objection will be sustained.

(A. Said: "Radio Tokyo did it again.")

Q. Incidentally, was the loss of ships broadcast as a flash news item, if you know?

Mr. DeWolfe: Go ahead.

A. I think it was.

Q. Are you willing to come to the United States and testify as to the facts stated in your deposition this morning?

Mr. DeWolfe: Go ahead.

A. On one condition, if the A.P. office permits.

Q. I want to ask you something else, did Brundidge suggest to you after you went to his hotel on the second occasion, that you forget all about this conversation you had with him?

Mr. DeWolfe: Objected to as hearsay, incompetent.

The Court: Objection sustained.

(A. I forget the exact words he used at that time but I received the impression that he wanted to keep all this confidential. Yes, he told me not to write any stories but he broke the story by an article in the Nashville, Tennessee, paper, and AP carried it from Tennessee.) [19]

(Deposition of Toshikatsu Kodaira.)

Mr. Collins: Cross-examination by Mr. Storey.

Mr. DeWolfe: Cross-examination, under the new Federal Criminal Rules, is waived, sir.

Mr. Collins: The defendant will offer the cross-examination by Mr. Storey.

(Whereupon the cross-examination was read, Mr. Collins reading the question and Mr. Tamba the answers.)

Q. When you first met Mr. Brundidge, did he tell you what his business in Japan was at that time?

Mr. DeWolfe: Objected to as hearsay, sir.

The Court: Objection sustained.

(A. Oh, yes, he showed me his passport issued by the Department of Justice, some sort of certificate.)

Q. Was it something like this (Mr. Storey shows a passport to the witness)?

Mr. DeWolfe: Object to that as hearsay.

The Court: Objection sustained.

(A. No.)

Q. Did Mr. Brundidge tell you that he was a representative of the Department of Justice at the time he first met you?

Mr. DeWolfe: Objected to as hearsay.

Mr. Collins: That goes right to the very issue, if your Honor please.

The Court: Yes, but it is hearsay; the objection will be sustained.

(Deposition of Toshikatsu Kodaira.)

(A. Yes.)

Q. Did Mr. Brundidge tell you that he was also a newspaper man?

Mr. DeWolfe: Objected to as hearsay, incompetent.

The Court: Objection sustained.

(A. Not exactly. Yagi said Brundidge was an associate-editor of a certain Hearst Magazine.)

Q. Did Mr. Brundidge tell you that he was a representative of the Department of Justice when he talked to you concerning the Iva Toguri case?

Mr. DeWolfe: Objected to as hearsay. [20]

The Court: Objection sustained.

(A. I don't remember that point.)

Q. What was the paper that Mr. Brundidge showed you?

Mr. DeWolfe: Objected to as not the best evidence, incompetent, irrelevant and immaterial. Also hearsay.

The Court: Objection sustained.

(A. I vaguely remember he showed me some kind of a can you call it a certificate, or, I don't know.)

Q. Did he show you anything like this (Mr. Storey shows witness his Department of Justice identification card)?

Mr. DeWolfe: Objected to as incompetent, irrelevant, and immaterial.

The Court: Objection sustained.

(A. No, I don't remember. He showed me

(Deposition of Toshikatsu Kodaira.)

something but I don't know what it was. He showed me something but it is so vague now.)

Q. Do you recall seeing on the paper that Mr. Brundidge showed you anything pertaining to the Department of Justice?

Mr. DeWolfe: Objected to as immaterial, incompetent, and irrelevant.

The Court: Objection sustained.

(A. Anything pertaining to the Department of Justice—I don't think I remember.)

Q. Mr. Kodaira, have you ever seen a military entry permit the civilians have which gives permission for persons to enter Japan (Mr. Storey shows witness a military entry permit)?

Mr. DeWolfe: Go ahead.

A. No, we are not so familiar with them.

Q. How long were you and Mr. Brundidge in the room on the first occasion that you met him?

Mr. DeWolfe: Objected to as incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. About an hour. Little over an hour.) [21]

Q. Can you recall what Mr. Brundidge said to you when you first met him? Did he identify himself as an investigator in this case?

Mr. DeWolfe: Go ahead.

A. I don't recall his exact words.

Q. During the conversation with you did he mention to you that he was a newspaper man?

Mr. DeWolfe: Objected to as hearsay, incompetent.

(Deposition of Toshikatsu Kodaira.)

The Court: Objection sustained.

(A. I don't think he did because Yagi told me before.)

Q. Told you what?

Mr. DeWolfe: Same objection, sir.

The Court: Same ruling.

(A. Before we met, Yagi told me that he came in with the first wave of the Occupation as a correspondent.)

Q. Then at the time you first met and talked with Mr. Brundidge, you didn't know whether he was a newspaperman or representative of the Department of Justice?

Mr. DeWolfe: Object to that as calling for a conclusion, hearsay, incompetent, irrelevant, immaterial.

The Court: Objection sustained.

(A. This is it, you see, at the meeting we had, Yagi and I, at the St. Paul's Club, Yagi told me that the Brundidge family was very friendly, and that Brundidge worked as a newspaper man in Chicago at the time when Al Capone was indicted, so he gave me the impression, this is Yagi, that Brundidge is a very good friend of Mr. Tom Clark.)

Q. Do you recall anything that was said by Brundidge that would lead you to believe that he was a representative of the Department of Justice?

Mr. DeWolfe: Object to that as calling for a conclusion, hearsay, not the best evidence.

The Court: Objection sustained.

(Deposition of Toshikatsu Kodaira.)

(A. I personally thought, from Yagi's explanation, that Mr. Brundidge was acting in behalf of the Department of Justice, because Yagi told me that Mr. Hogan was the formal representative of the Department of Justice.) [22]

Q. Did you see or talk to Mr. Hogan at all during the time he was here?

Mr. DeWolfe: Pardon me just a moment. No objection.

A. Not at all, not at all.

Q. During your conversation with Mr. Brundidge, did he mention to you a trip to the United States?

Mr. DeWolfe: Objected to as hearsay, incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. He more or less suggested that.)

Q. Did he—but he didn't definitely ask you or promise you a trip to the States, that you can recall?

Mr. DeWolfe: Objection to as hearsay.

The Court: Objection sustained.

(A. No.)

Q. During your conversation with Brundidge did you tell him that you had witnessed a Zero Hour broadcast?

Mr. DeWolfe: Objected to as hearsay, incompetent.

The Court: Objection sustained.

(Deposition of Toshikatsu Kodaira.)

(A. You mean if I saw the Zero Hour broadcast, yes.)

Q. Did Mr. Brundidge ask you at that time what Miss Toguri had to say on this program?

Mr. DeWolfe: Objected to as immaterial, hearsay, incompetent.

The Court: Objection sustained.

(A. I told him I saw the broadcast. But at the time of the broadcast, Iva was in the room but was not broadcasting. The time was shortly before or after the battle of the Philippine sea.)

Q. Mr. Kodaira, you have testified that Tokyo Rose was a group of girls?

Mr. DeWolfe: Go ahead.

A. Yes.

Q. How do you know this information?

Mr. DeWolfe: Just a moment Mr. Tamba. Object to that as hearsay.

The Court: Objection sustained. [23]

(A. Because I saw other girls besides Toguri.)

Q. How many times did you see the Zero Hour broadcast?

Mr. DeWolfe: Go ahead.

A. Once.

Q. Were there other girls at the studio at the time you saw the broadcast?

Mr. DeWolfe: Go ahead.

A. Yes, I remember the color of the clothes worn by Toguri. Miss Toguri had a yellow dress. Another girl had a dark dress. I mean black, excuse me.

(Deposition of Toshikatsu Kodaira.)

Q. During the broadcast, did these girls refer to themselves as Tokyo Rose?

A. I don't think they did.

Q. Well, then, how do you know they were called Tokyo Rose?

Mr. DeWolfe: Objected to as calling for a conclusion, hearsay, incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. It became a very famous program, and being on the inside, many information can come to the sub-committee.)

Q. Then you received this information by way of an official report to the foreign office?

Mr. DeWolfe: Objected to as hearsay, not the best evidence, incompetent.

The Court: Objection sustained.

(A. Not that, because this program was entirely under the control of the army. The Foreign Office, the Information Board, even the JOAK, had no control over it.)

Q. Then all you know about the group of girls being referred to as Tokyo Rose is what someone else told you?

Mr. DeWolfe: Objected to as hearsay, incompetent, irrelevant, and immaterial.

The Court: Same ruling.

(A. Yes, you see, I was in charge of this sub-committee of the Board of Information which had an office in the Radio Tokyo, while Itabashi, the

(Deposition of Toshikatsu Kodaira.)

original chairman, was sick, and this sub-committee [24] was composed of representatives of the Army, or shall I give you the names, the Army, Mr. Norizane Ikeda, the Navy, I forget this name, the Foreign Office, Board of Information, and through this man Ikeda we used to obtain many information.)

Q. Was it your duty to monitor at times the Zero Hour?

Mr. DeWolfe: Go ahead, Mr. Tamba.

A. That was not my duty.

Q. Did you ever monitor the Zero Hour program?

Mr. DeWolfe: Go ahead.

A. Sometimes somebody checked it but I never did myself.

Q. From the Japanese standpoint, what was the purpose of the Zero Hour program?

Mr. Collins: The defendant will object to that on the ground that is calling for the opinion and conclusion of the witness, it is hearsay, improper cross-examination, and it is incompetent, irrelevant and immaterial.

Mr. DeWolfe: Well, no further objection is necessary. We both agree on that one, then.

(A. Well, I think it was more or less the army's purpose to demoralize the American soldiers down south.)

Mr. Collins: And then the next question too.

Mr. DeWolfe: I will agree it all go out if you

(Deposition of Toshikatsu Kodaira.)

want to. Next one, anyone you want to go out; it is all right with me.

(Q. In other words the Zero Hour program was an instrument of psychological warfare?)

(A. Exactly.)

Mr. Collins: Then the next:

Q. And you of your own knowledge know that Miss Toguri participated in that program?

Mr. DeWolfe: Just a minute. This is line 22?

Mr. Collins: Line 22.

Mr. Tamba: Line 24 is the answer, Mr. DeWolfe.

Mr. DeWolfe: Line 24, all right, go ahead.

A. She was in the room, but I didn't hear her.

Q. In your official capacity as a member of the Board, did you [25] know that Miss Toguri was participating in the Zero Hour program?

Mr. DeWolfe: Go ahead.

A. Well, as I told you before, we had no official control over this broadcast and my information was indirect and I never—I only saw her once in that studio, but at that time she was not broadcasting.

Q. Had Yagi already gone to the United States before Mr. Woods contacted you?

Mr. DeWolfe: Objected to as irrelevant and incompetent, sir.

The Court: Objection sustained.

(A. Yagi was in the United States.)

Q. At the time of your conversation with Mr. Woods?

(Deposition of Toshikatsu Kodaira.)

Mr. DeWolfe: Object to that as incompetent, irrelevant, and immaterial.

The Court: Objection sustained.

(A. Right.)

Q. In Mr. Woods' conversation with you was he attempting to find out what happened between Yagi, Brundidge, and yourself?

Mr. DeWolfe: Object to that as calling for a conclusion, hearsay, incompetent.

The Court: Objection sustained.

(A. He was not trying to find that out. He just mentioned about Yagi.)

Q. What was the purpose of confronting you with Mr. Yagi, in Mr. Woods' presence?

Mr. DeWolfe: Object to that as calling for a conclusion, hearsay, incompetent.

The Court: Objection sustained.

(A. I think to find out the truth.)

Q. When did this confrontation take place? Soon after Yagi returned from the United States?

Mr. DeWolfe: Objected to as incompetent, irrelevant, immaterial, hearsay.

The Court: Sustained. [26]

(A. Not soon, but a little later, about a week and a half later.)

Q. And at that time did you tell Mr. Woods essentially what you told us today in this deposition?

Mr. DeWolfe: Same objection, sir.

The Court: Same ruling.

(Deposition of Toshikatsu Kodaira.)

(A. Yes. Just a moment, I want to make a correction in that statement. Can I?)

Q. Yes.

Mr. DeWolfe: Same objection, Your Honor.

The Court: Same ruling.

(A. What I told Mr. Woods was mostly about Yagi. If Yagi was with me when I saw this broadcast. I repeatedly told him that Yagi was absolutely not with me when I saw this broadcast.)

Q. Then, when you told Mr. Woods that, that led up to this confrontation with Yagi, that took place later?

Mr. DeWolfe: Object to that as hearsay, incompetent.

The Court: Objection sustained.

(A. Yes.)

Q. Mr. Kodaira, can you recall the date you have the conversation with Major Tsuneishi concerning the Major Cousens incident?

Mr. DeWolfe: Objection to that as incompetent, and an objection was sustained on direct examination to it as hearsay.

The Court: Objection sustained.

(A. He came to see me around ten o'clock, 26th of April, and then——)

Q. What year?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. This year. In April of this year, 1949. Then we could not talk much at my office so I asked

(Deposition of Toshikatsu Kodaira.)

him to come over to my place seven p.m. the next day, that is April 27, 1949.)

Q. Did Major Tsuneishi also tell you that he made the statement concerning Major Cousens to the Australian authorities so as not to incriminate himself?

Mr. DeWolfe: Objected to as improper, and as incompetent, irrelevant and immaterial, hearsay, the same objection to the same matter sustained on direct examination. [27]

The Court: Objection sustained.

(A. He did not mention anything about himself. He regretted very much the denials he made to this Australian investigator.)

Q. And these denials were also for the purpose of not incriminating himself as a war criminal?

Mr. DeWolfe: Same objection, sir, same matter.

The Court: Sustained.

(A. No, he said he at that time didn't know which way the wind was blowing. He thought it was concerning war crimes.)

Q. Mr. Kodaira, do you know Miss Toguri personally?

Mr. DeWolfe: Go ahead.

A. No.

Q. Do you know Mr. Philip D'Aquino?

A. No.

Q. You have never talked to Mr. D'Aquino?

A. No.

Mr. Collins: Redirect examination by Mr. Tamba.

(Deposition of Toshikatsu Kodaira.)

(Whereupon the redirect examination was read, Mr. Collins reading the questions and Mr. Tamba the answers.)

Q. Mr. Kodaira, have you had a conversation with Mr. Yagi in the past week or ten days in which he told you that when he was pressed to give your name in San Francisco he first went to see Brundidge, before he mentioned your name.

Mr. DeWolfe: Objected to as hearsay.

The Court: Objection sustained.

(A. He told me that when they pressed with whom he saw the broadcast he went to Mr. Hogan first, then Mr. Hogan referred him to Mr. Brundidge.)

Q. Then Brundidge told him to give your name?

Mr. DeWolfe: Same objection, if the court please.

The Court: Same ruling.

(A. That is what he told me.)

Q. In your discussion with Mr. James Woods there was no occasion to bring out Brundidge's name, is that correct?

Mr. DeWolfe: Object to that as incompetent, hearsay, calling for a conclusion. [28]

The Court: Objection sustained.

(A. He asked me once if I met Mr. Brundidge. I said, yes, but that was all.)

Q. In the past few days has Mr. Yagi told you that he made a full and complete statement regard-

(Deposition of Toshikatsu Kodaira.)

ing this affair to Mr. Tillman of the F.B.I.?

Mr. DeWolfe: Objected to as hearsay.

The Court: Objection sustained.

(A. That is what he told me. He told me that he mentioned Mr. Brundidge's name six or seven times.)

Q. Counsel has asked you about Zero Hour broadcast demoralizing the American troops, do you know of your own knowledge that it actually demoralized American troops?

Mr. DeWolfe: Well, that is redirect examination, covering a matter taken up on cross-examination which he and myself agreed should go out on cross-examination. He didn't want it in, the answer to it, and now this is on redirect. It is objected to as incompetent.

The Court: The objection is sustained.

(A. I think it didn't work.)

Mr. Collins: Then the next portion reads as follows:

"Tokyo, Japan, 28 May, 1949, by Mr. Tamba: Mr. Ainsworth, this deposition of Toshikatsu Kodaira is opened by stipulation for the purpose of offering certain items in evidence, please let the record show this. Redirect examination by Mr. Tamba."

(Whereupon the redirect examination by Mr. Tamba under date of 28 May, 1949, referred to above, was read, Mr. Collins reading the questions and Mr. Tamba the answers.)

(Deposition of Toshikatsu Kodaira.)

Q. Mr. Kodaira, I hand you three articles of clothing and ask you what they are. What are they, a suit of clothes?

Mr. DeWolfe: Objected to as incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. Yes.) [29]

Q. And where did you first see that suit of clothes?

Mr. DeWolfe: Objected to as incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. I saw it in Mr. Brundidge's room at the Dai Iti Hotel.)

Q. On what occasion.

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. When I met him with Yagi the first time.)

Q. And is that the suit he gave you?

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. Yes.)

Q. Has that suit been changed any, or altered, since that time?

Mr. DeWolfe: Objection to as incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. Yes, the coat and trousers.)

Q. What was done with them?

(Deposition of Toshikatsu Kodaira.)

Mr. DeWolfe: Same objection, if the Court please.

The Court: Same ruling.

(A. Shortened to fit my size.)

Q. Who did that altering?

Mr. DeWolfe: Objected to as immaterial and incompetent.

The Court: Same ruling.

(A. My wife.)

Q. I invite your attention to the item called "vest" and ask you whose name is that inside the vest? (Witness shown vest.)

Mr. DeWolfe: Objected to as incompetent, irrelevant and immaterial.

The Court: Objection will be sustained.

(A. Harry Brundidge.)

Q. And bears No. 51985 and date of April 12, 1939?

Mr. DeWolfe: Objected to as incompetent, irrelevant and immaterial. [30]

The Court: Objection sustained.

(A. Yes.)

Q. I show the trousers and particularly the left rear pocket and ask you what appears there, if anything? (Witness shown trousers.)

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. Harry Brundidge.)

Q. And number 51985? And date April 12, 1939?

(Deposition of Toshikatsu Kodaira.)

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. Correct.)

Q. And you never saw that until I showed it to you, is that true?

Mr. DeWolfe: Objected to as incompetent, irrelevant and immaterial.

The Court: Same ruling.

(A. That's correct.)

Mr. Collins: And then by Mr. Tamba: "Let the record show that no name appears——"

Mr. DeWolfe: Just a moment now, Mr. Collins. Mr. Tamba wanted to make the record show that the labels in this clothing, as testified to—that there were none. I don't think that is proper to go in the record here at this time. He makes a statement here as to certain labels in the clothing, Mr. Tamba does, "Let the record show so and so," and I object to that statement.

The Court: It may go out.

Mr. Collins: It simply said, "Let the record show that no name appears on the coat * * *"

Mr. DeWolfe: There is more than that.

Mr. Collins: Well, it doesn't—I mean, it is part and parcel of the deposition, if your Honor please. It is a statement of counsel.

The Court: It may go out and let the jury disregard it.

Mr. DeWolfe: Now the cross-examination——

Mr. Collins: Just a moment, Mr. Dewolfe. The

(Deposition of Toshikatsu Kodaira.)

matter that is now stricken by the court and that the court instructed the jury to disregard is that matter which appears commencing by [31] Mr. Tamba, on line 4, page 19 of the deposition, and extending down to and including the material, or the words, "Kodaira deposition," line 9 of page 19 of the said deposition.

The Court: Let the record so show.

(By Mr. Tamba: Let the record show that no name appears on the coat but that it shows the label Oxford Clothes, purchased from D. & J. Williamson, Inc., St. Louis, Mo., and I offer these three items as defendant's exhibit "1" in Kodaira deposition.)

Mr. DeWolfe: All right. The next is cross-examination, sir; it is not offered by the United States.

Mr. Collins: The defendant will offer the cross-examination of the witness by Mr. Storey.

(Whereupon the recross-examination was read, the questions being read by Mr. Collins and the answers by Mr. Tamba.)

Q. What did Mr. Brundidge say to you when he gave you this suit?

Mr. DeWolfe: Objected to as hearsay.

The Court: Objection sustained.

(A. Oh, I hesitated, and he said: "Take it," and at the same time he said he gave another suit to Takasumi Mitsui. I think that was all.)

Q. Did you take the suit to Mr. Mitsui?

(Deposition of Toshikatsu Kodaira.)

Mr. DeWolfe: Objected to as incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. Who, did I?)

Q. Yes.

Mr. DeWolfe: Same objection.

The Court: Same ruling.

(A. No.)

Q. Did Mr. Brundidge say anything else to you at the time he gave you the suit?

Mr. DeWolfe: Objected to as hearsay, sir.

The Court: Objection sustained. [32]

(A. I don't quite remember.)

Q. When did Mr. Brundidge give you this suit, the first time you saw him?

Mr. DeWolfe: Objected to as incompetent, Your Honor.

The Court: Objection sustained.

(A. Right.)

Q. Did Mr. Brundidge give you anything else at that time?

Mr. DeWolfe: Same objection, may it please the court.

The Court: Same ruling.

Mr. Collins: And the next page is an addenda to said deposition, it is dated Tokyo, Japan, 2 June 1949, by Mr. Tamba: "Mr. Ainsworth, I am asking that this deposition be reopened for the second time for the purpose of asking a few brief questions."

(Deposition of Toshikatsu Kodaira.)

(Whereupon redirect examination, dated 2 June 1949, was read, questions being read by Mr. Collins and answers by Mr. Tamba.)

Q. Mr. Kodaira, on the first occasion when you and Yagi met Mr. Brundidge at the Dai Iti Hotel and after you had a discussion with him, did Brundidge leave the room, if you recall?

Mr. DeWolfe: Objected to as incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. As far as I can recall he left the room. He left us two alone.)

Q. When you say us two, you mean you and Yagi?

Mr. DeWolfe: Same objection, sir.

The Court: Same ruling.

(A. Yes, me and Yagi.)

Q. And you and Yagi had a discussion?

Mr. DeWolfe: Objected to as incompetent, irrelevant and immaterial. Also hearsay.

The Court: Objection sustained.

(A. Yes, in Japanese.)

Q. Can you recall the substance of that discussion?

Mr. DeWolfe: Same objection, Judge.

The Court: Same ruling. [33]

(A. I cannot recall the conversation in Japanese with Yagi, but I told him that to stand as a witness is a very serious matter.)

(Deposition of Toshikatsu Kodaira.)

Q. Then did Brundidge return to the room later?

Mr. DeWolfe: Objected to as incompetent, irrelevant and immaterial.

The Court: Same ruling.

(A. Yes, he did.)

Q. Now, did Brundidge say anything to you on that occasion or on the second occasion, if you recall, indicating that he was anxious to have two witnesses?

Mr. DeWolfe: Objected to as hearsay.

The Court: Objection sustained.

(A. Well, he did not suggest clearly, but I received that impression.)

Q. What impression did you receive?

Mr. DeWolfe: Objected to as calling for a conclusion, hearsay.

The Court: The objection is sustained.

(A. Of trying to get Yagi and I.)

Q. Now, referring to the second meeting with Brundidge, which was on the following day, and after you had told him you would not testify, did you have a discussion with him regarding Niseis?

Mr. DeWolfe: Objected to as hearsay.

The Court: Objection sustained.

(A. Yes.)

Q. What was said by you with reference to Niseis and what was said by him if you recall?

Mr. DeWolfe: Objected to as hearsay, your Honor.

The Court: Sustained.

(Deposition of Toshikatsu Kodaira.)

(A. Well, I told him about the plight of the Niseis in Japan, especially when they were caught in a war, and then I inferred that Niseis were not treated good over here, in Japan, and they were not treated decently in the United States either.)

Q. What did he say when you made that statement? [34]

Mr. DeWolfe: Objected to as hearsay, sir.

The Court: Objection sustained.

(A. He told me, sharply, that the Niseis were getting good treatment since the war, especially in the Eastern part of the United States, and then he mentioned Niseis in Chicago.)

Q. Then did he get into a discussion about Iva again?

Mr. DeWolfe: Objected to as incompetent and hearsay.

The Court: Objection sustained.

(A. Yes, he did.)

Q. What did he say, if you can remember?

Mr. DeWolfe: Objected to as hearsay.

The Court: Objection sustained.

(A. He said: "In America they don't hang women, and after the trial and after sentence she can live in America forever.")

Q. Was that toward the end of your discussion with him?

Mr. DeWolfe: Objected to as incompetent and irrelevant.

The Court: Objection sustained.

(Deposition of Toshikatsu Kodaira.)

(A. Yes.)

Q. Then what did you do and what did he do?

Mr. DeWolfe: Objected to as immaterial and incompetent.

The Court: Same ruling.

(A. Then I thanked him and shook hands with him and left the room with Yagi.)

Mr. Collins: Then recross-examination by Mr. Storey.

Mr. DeWolfe: Which is not offered by the United States.

Mr. Collins: The defendant will offer recross-examination of the witness by Mr. Storey.

(Whereupon recross-examination was read, Mr. Collins reading the questions and Mr. Tamba the answers.)

Q. Did you ever meet and talk to Mrs. D'Aquino?

Mr. DeWolfe: Go ahead.

A. Mrs. D'Aquino, no.

Q. Did you ever see Mrs. D'Aquino while she was at the radio station broadcasting?

Mr. DeWolfe: Go ahead. [35]

A. Mrs. D'Aquino, again?

Q. Yes.

A. I saw her once. I think I mentioned earlier that she was not broadcasting then.

Q. So far as you personally know that is the only thing you know concerning Mrs. D'Aquino and her activities? A. That's right.

Q. What specifically, did Mr. Brundidge say to

(Deposition of Toshikatsu Kodaira.)

you which led you to believe that he was looking for two witnesses?

Mr. DeWolfe: Objected to as hearsay.

The Court: Objection sustained.

(A. At the first session excuse me, the first meeting with Mr. Brundidge he repeatedly said, if I remember correctly, the way to say as two witnesses, Yagi and I saw her.)

Q. Is that all he said concerning two witnesses?

Mr. DeWolfe: Same objection, sir.

The Court: Same ruling.

(A. Yes.)

Q. And from that you gained the impression that he was looking for two witnesses?

Mr. DeWolfe: Same objection calling for a conclusion, likewise.

The Court: Objection sustained.

(A. That's right.)

Q. Do you recall that I asked you in one of the other depositions if you recall any further conversation between you and Brundidge, in which you answered, "No".

Mr. DeWolfe: Objected to as calling for hearsay.

The Court: Objection sustained.

Mr. Collins: Then, by Mr. Tamba: "I will stipulate that that was asked of the witness and that he answered "No".

Mr. DeWolfe: Move that that statement by Mr. Tamba go out.

(Deposition of Toshikatsu Kodaira.)

The Court: Objection sustained, let it go out.

Mr. Collins: Question by Mr. Tamba:

Q. Can you recall anything else that Mr. Brundidge said to you that you have not already given us in this deposition?

Mr. DeWolfe: Objected to as hearsay, sir.

The Court: Objection sustained.

(A. No, I don't think I can recall anything else at the moment.) [36]

Japan,
City of Tokyo,
American Consular Service—ss:

I do solemnly swear that I will truly and impartially take down in notes and faithfully transcribe the testimony of Toshikatsu Kodaira, a witness now to be examined. So help me God.

/s/ MILDRED MATZ.

Subscribed and sworn to before me this 23rd day of May, A.D. 1949.

/s/ THOMAS W. AINSWORTH,
Vice Consul of the
United States of America.

[American Consular Service Seal.]

Service No. 964a; Tariff No. 38; No fee prescribed.

Japan,
City of Tokyo,
American Consular Service—ss:

CERTIFICATE

I, Thomas W. Ainsworth, Vice Consul of the United States of America in and for Tokyo, Japan, duly commissioned and qualified, acting under the authority of a certain stipulation for taking oral designations abroad, and upon order of the United States District Court, made and entered March 22, 1949, in the Matter of United States of America, Plaintiff, vs. Iva Ikuko Toguri D'Aquino, Defendant, pending in the Southern Division of the United States District Court, for the Northern District of California, and at issue between United States of America vs. Iva Ikuko Toguri D'Aquino, do hereby certify that in pursuance of the aforesaid stipulation and court order and at the request of Theodore Tamba, counsel for the defendant Iva Ikuko Toguri D'Aquino I examined Toshikatsu Kodaira, at my office in Room 335, Mitsui Main Bank Building, Tokyo, Japan, on the twenty-third day of May, A.D. 1949, on the twenty-eighth day of May, A.D. 1949, and on the second day of June, A.D. 1949, and that the said witness being to me personally known and known to me to be the same person named and described in the interrogatories, being by me first sworn to testify the truth, the whole truth, and nothing but the truth in answer to the several interrogatories and cross-interrogatories in

the cause in which the aforesaid stipulation, court order, and request for deposition issued, his evidence was taken down and transcribed under my direction by Mildred Matz, a stenographer who was by me first duly sworn truly and impartially to take down in notes and faithfully transcribe the testimony of the said witness Toshikatsu Kodaira, and after having been read over and corrected by him, was subscribed by him in my presence, and I further certify that I am not counsel or kin to any of the parties to this cause or in any manner interested in the result thereof.

In witness whereof, I have hereunto set my hand and seal of office at Tokyo, Japan, this second day of June, A.D. 1949.

/s/ THOMAS W. AINSWORTH,
Vice Consul of the
United States of America.

[American Consular Service Seal.]

Service No. 1096; Tariff No. 38; No fee prescribed.

[Endorsed]: Filed May 13, 1949.

In the Southern Division of the United States District Court for the Northern Division of California.

No. 31712 R

UNITED STATES OF AMERICA,

Plaintiff,

vs.

IVA IKUKO TOGURI D'AQUINO,

Defendant.

DEPOSITION OF J. A. ABRANCHES PINTO

Deposition of J. A. Abranches Pinto, taken before me, Thomas W. Ainsworth, Vice Consul of the United States of America, in Mitsui Main Bank Building, Room 335, in Tokyo, Japan, under the authority of a certain stipulation for taking oral designations abroad, and upon order of the United States District Court, made and entered March 22, 1949, in the Matter of the United States of America vs. Iva Ikuko Toguri D'Aquino, pending in the Southern Division of the United States District Court, for the Northern District of California, and at issue between the United States of America vs. Iva Ikuko Toguri D'Aquino.

The plaintiff, appearing by Frank J. Hennessy, United States District Attorney; Thomas DeWolfe, Special Assistant to the Attorney General, and Noel Storey, Special Assistant to the Attorney Gen-

eral, and the defendant, appearing by Wayne N. Collins and Theodore Tamba.

The said interrogations and answers to the witness thereto were taken stenographically by Mildred Matz and were then transcribed by her under my direction, and the said transcription being thereafter read over correctly to the said witness by me and then signed by said witness in my presence.

It is stipulated that all objections of each of the parties hereto, including the objections to the form of the questions propounded to the witness and to the relevancy, materiality and competency thereof, and the defendant's objections to the use of the deposition, or any part of the deposition, by plaintiff, on the plaintiff's case in chief, shall be reserved to the time of trial in this cause.

J. A. ABRANCHES PINTO

of Tokyo, Japan, Portuguese Consul in Tokyo, Japan, of lawful age, being by me duly sworn, deposes and says:

Direct Examination

By Mr. Tamba:

Q. Mr. Pinto, you are the consul for the Republic of Portugal in Tokyo, Japan? A. Yes.

Q. And you know Philip D'Aquino?

A. Yes.

Q. Is he a citizen and national of the Republic of Portugal? A. Yes, I consider him so.

Q. I am referring to the son, Philip D'Aquino?

(Deposition of J. A. Abranches Pinto.)

A. Yes, the son.

Q. I hand you a document dated April 4, 1944, and ask you what that is (document handed to witness)?

A. Yes, this is a certification of nationality of Filipe Jairus D'Aquino.

Q. Of whom? A. Portuguese nationality.

Q. Who is the person mentioned?

A. Filipe Jairus D'Aquino, the husband of Toguri D'Aquino, and this is the usual document for Portuguese citizens in Japan.

Mr. Tamba: I offer this document as defendant's exhibit "1" in Pinto deposition.

Q. Mr. Pinto, did you attend the wedding of Philip D'Aquino and Iva Toguri D'Aquino at Sophia University? A. Yes.

Q. And you were Mr. D'Aquino's best man, as I recall?

A. Well, I signed the registration papers.

Q. At the church?

A. At the church I signed it. As a witness, or best man, if you call it that, but of course in a private capacity.

Q. Not official capacity?

A. Not official capacity.

Q. I hand you a document dated June 18, 1945, and ask you what that is, Mr. Pinto (document shown to witness).

A. After they registered the marriage in the Portuguese Consulate I posted this little bulletin to certify that they have married and registered

(Deposition of J. A. Abranches Pinto.)

the marriage in the Portuguese Consulate.

Mr. Tamba: I offer this document in evidence as defendant's exhibit "2" in Pinto deposition.

Q. I am now referring to exhibit "1" which was offered, and ask you is that your signature at the bottom of that document? A. Yes.

Q. Is that the seal of your government?

A. Yes.

Q. I now refer to exhibit "2" which I offered, and ask you if that is your signature appearing thereon? A. Yes. [3*]

Q. And that is the seal of your government which appears on it? A. Yes.

Q. I hand you a document dated November 4, 1948, Mr. Pinto, and ask you what that document is (document shown to witness).

A. This is a transcription from the books in the Portuguese Consulate of the marriage of D'Aquino and Toguri D'Aquino in the Catholic Church. It is in the Portuguese Consulate books and this is a full transcription.

Q. That is your signature on the second page at the bottom of the document? A. Yes.

Q. And that is the seal of your government on this document? A. Yes.

Mr. Tamba: I offer this document, together with the English translation, which the witness has read, in evidence as defendant's exhibit "3" in Pinto deposition.

* Page numbering appearing at bottom of page of original Reporter's Transcript.

(Deposition of J. A. Abranches Pinto.)

Q. Mr. Pinto, I hand you a document dated November 4, 1948, and ask you what that document is? (Witness shown document.)

A. This is the document which certifies that Mr. Filipe D'Aquino is a Portuguese citizen.

Q. And he was born when?

A. I don't know why he asked for such a document.

Q. Is that your signature on this paper?

A. Yes.

Q. And that is the seal of your government on this paper? A. Yes.

Mr. Tamba: I offer this document in evidence as defendant's exhibit "4" in Pinto deposition.

Q. I hand you another document, Mr. Pinto, dated November 4, 1948, [4] and ask you what that is (witness shown document).

A. I suppose Mr. D'Aquino asked me for a legal certificate of his registration in the Portuguese Consulate when he was born. All the documents in the Portuguese Consulate in Yokohama were lost in 1923 in the big earthquake. Then, of course I could not pass such a document. Could not give him. Then I certified that such a thing happened and it is impossible to furnish a certificate of registration of birth of Filipe D'Aquino, married, born in Yokohama on 26 March, 1921, son of Jose Filomeno D'Aquino and Maria D'Aquino. I cannot pass the document because it was burned. I cannot pass the document. Orig-

(Deposition of J. A. Abranches Pinto.)

inal document I cannot furnish. Copy of the original document I cannot furnish because the books were lost.

Q. When you use the word "pass" you mean you cannot deliver the document because it was destroyed in the fire?

Mr. Tamba: I offer this document together with English translation thereof as defendant's exhibit "5" in Pinto deposition.

Q. By the way, Mr. Pinto, is that your signature at the bottom of this document, exhibit "5"?

A. Yes.

Q. And the seal thereon is the seal of your government? A. Yes.

Q. Mr. Pinto, this exhibit which I refer to as exhibit "5" with the translation, is in lieu of a birth certificate because the birth certificate was destroyed? A. Yes.

Q. Now, Mr. Pinto, I show you document dated 10 September, 1946, and ask you if the signature appearing on the right-hand of that is your signature? (Document shown to witness.)

A. Yes.

Q. And the seal of your country? [5]

A. Yes.

Q. Whose signature is that on the left-hand side? A. Mrs. Toguri D'Aquino.

Q. She signed that Ikuko Toguri D'Aquino.

A. Yes.

Mr. Tamba: I offer this document as defend-

(Deposition of J. A. Abranches Pinto.)

ant's exhibit "6" in Pinto deposition, together with English translation thereof.

Q. And that (referring to exhibit "6") is a certificate of registration of Ikuko Toguri D'Aquino with the Portuguese Consul in Tokyo, Japan, on 10 September, 1946? A. Yes.

Q. I hand you another document, Mr. Pinto, dated 20 June, 1945, is that your signature on the right hand side (witness shown document)?

A. Yes.

Q. And this is the seal of your country on this document? A. Yes.

Q. To the left of your signature there is another one, whose signature is that?

A. Ikuko Toguri D'Aquino.

Q. Signed in your presence? A. Yes.

Q. Registered in your office? A. Yes.

Q. This document together with the one which I just showed you as defendant's exhibit "6," these contain photographs of Mrs. D'Aquino?

A. Yes.

Mr. Tamba: I offer this document as defendant's exhibit "7" in Pinto deposition. [6]

Q. I now hand you another document dated June 30th, 1947, and ask you what that is. (Document exhibited to witness.)

A. Certificate of registration of Filipe Jairus D'Aquino.

Q. Is this your signature on the document (indicating)? A. Yes.

(Deposition of J. A. Abranches Pinto.)

Q. And the seal of your government appears on it? A. Yes.

Q. And the signature of Filipe J. D'Aquino?
A. Yes.

Mr. Tamba: I offer this document, together with a translation thereof, in evidence as defendant's exhibit No. "8" in Pinto deposition.

Q. Exhibit "1" which we offered in this deposition, what is that document, Mr. Pinto? What is this document? Tell us for the purpose of the record?

A. Certificate of nationality of Filipe Jairus D'Aquino as a Portuguese citizen.

Q. Referring to Exhibit "6" in this deposition, what is that, sir?

A. Certificate of Portuguese nationality of Ikuko Toguri D'Aquino by marriage with Filipe Jairus D'Aquino, as a Portuguese citizen, bears date 10 September, 1946.

Q. Exhibit "7," what is that, sir?

A. Certificate of nationality of Toguri D'Aquino as a Portuguese citizen.

Q. That is by virtue of marriage with a Portuguese citizen, Filipe D'Aquino? A. Yes.

Q. And that has your signature?

A. Marriage with Portuguese citizen, Filipe Jairus D'Aquino.

Q. Dated June 20, 1945? A. Yes.

Q. Mr. Pinto, how long have you been a resident of Japan? [7]

(Deposition of J. A. Abranches Pinto.)

A. I have been in Japan for thirty-two years.

Q. And you have been Portuguese Consul for how many years?

A. I think I have been Consul since I come to Japan in 1917 up to I am not sure but I think up to middle of 1921 and after that I left the Consulate for a while, I don't know how many years, but I think about five years maybe, and after five years the Consulate in Yokohama was vacated, see, and the Portuguese Minister here asked me again to become the Consul for Portuguese and I said on condition that the Consulate be moved to Tokyo because I was living in Tokyo. Then I became Consul for Portuguese up to now. I think from 1926 maybe I became Consul in Tokyo, or '25, I am not sure.

Q. And you have been Portuguese Consul in Tokyo ever since 1925 or '26 up to the present time? A. Yes.

Q. As Portuguese Consul have you had occasion to familiarize yourself with regard to the laws of Portugal with reference to registration of citizens and acquisition of Portuguese nationality?

A. Yes.

Q. You have acquired that through your experience as a Portuguese Consul? A. Yes.

Q. Your experience on that subject of the law has been acquired by reading Portuguese law books and from your experience as Portuguese Consul?

A. Yes.

(Deposition of J. A. Abranches Pinto.)

Q. Will you state, Mr. Pinto, whether or not according to the law of Portugal the marriage of an adult woman citizen of the United States to an adult male Portuguese citizen in Tokyo, Japan, on April 19, 1945, in and of itself conferred upon that woman the nationality and citizenship of Portugal? A. Yes. [8]

Q. It did?

A. Yes, according to Portuguese law, yes.

Q. Will you state whether or not according to the law of Portugal the formal registration of such a marriage by such husband and wife or by either of them at the Consulate of Portugal in Tokyo, Japan, constituted a formal acquisition of Portuguese nationality by said woman, or by the wife?

A. Yes.

Q. It did? A. Yes.

Q. Mr. Pinto, Mrs. Iva Toguri D'Aquino was born in California of Japanese parents?

A. Yes.

Q. And in consequence was a citizen of the United States by birth? A. Yes.

Q. In July, 1941, she left the United States?

A. Yes.

Q. She took up residence in Tokyo, Japan?

A. Yes.

Q. Thereafter she was united, she was married on April 19, 1945, at Tokyo, Japan, according to the rites of the Roman Catholic Church at Sophia University Chapel, to Philip D'Aquino, a national

(Deposition of J. A. Abranches Pinto.)

and citizen of Portugal residing in Japan, who is one-fourth Portuguese and three-fourths Japanese blood? A. Yes.

Q. Can you state whether or not according to the law of Portugal by virtue of said marriage, in and of itself, she then and there became a national and citizen of Portugal? A. Yes.

Q. She did become a national and citizen of Portugal? A. Yes.

Q. Have you the Portuguese law on that subject with you? A. Yes. [9]

Q. May we see the books, sir?

A. (Witness produces two books, which he consults.) This is the Civil Code. This article, Article 18 of the Code, has been modified.

Q. Where does it provide that Mrs. D'Aquino became a Portuguese citizen? A. Where?

Q. Where in the book?

A. Article 18, Portuguese Citizens.

Q. Don't read any of the paragraphs in that book other than those which apply to her.

A. (Witness reads.) "No. 6. The foreign woman who marries with a Portuguese citizen * * *"

Q. Becomes a citizen and national of Portugal?

A. The new one is the same, yes. (Witness reads from book.) "The foreign woman that marries with a Portuguese citizen * * *"

Q. She becomes a citizen and national of Portugal? A. Yes.

(Deposition of J. A. Abranches Pinto.)

Q. I want to ask you another question. That woman acquires Portuguese citizenship by virtue of the fact that she is married outside of the United States?

A. Even if she married in the United States she would become a Portuguese citizen.

Q. But she could not claim the benefits of the Portuguese law had she married in the United States? A. Yes, she could not.

Q. But because she married in Japan to a Portuguese citizen she can claim the benefit of the Portuguese law? A. Yes.

Q. Incidentally, are you familiar with Machado Villela? A. Yes.

Q. Who is he? [10]

A. Well, he was a lawyer, or a teacher of law, and is a well known international lawyer.

Q. He is a Portuguese international lawyer?

A. Yes.

Q. He published a book in 1921? A. Yes.

A. That book is *Tratado Elementar de Direito Internacional Privado*? A. Yes.

Q. And the opinion you have expressed here this morning is confirmed in that book?

A. What is that?

Q. The opinion which you expressed here is confirmed by Mr. Villela?

A. Is according to the *Tratado Elementar de Direito Internacional Privado*.

Q. For the purpose of the record, the Book

(Deposition of J. A. Abranches Pinto.)

No. 1 published in 1921, paragraph 38, page 116, you delivered the book to the Minister and it is in the Minister's office? A. Yes.

Cross-Examination

By Mr. Storey:

Q. Mr. Pinto, who is the chief of the Ministry of the Portuguese Government in Tokyo, Japan?

A. Mr. Franco Nogueira.

Q. Are you familiar with Mr. Nogueira's signature? A. Yes.

Q. I hand you a document, Mr. Pinto, which is offered as Government's Exhibit "1," in connection with this deposition, and ask you if you can identify the signature appearing on this document?

Mr. Tamba: Document is objected to upon the ground that no proper foundation has been laid, and constitutes hearsay. [11]

Q. Is that Mr. Nogueira's signature on the document referred to?

A. Yes. Excuse me, well, of course it is his signature but usually he writes his signature complete: "Franco Nogueira." Here, in Portuguese, we call it rubrica only. Of course it is his rubrica but usually he signs it Franco Nogueira. At least that is the signature I know.

Q. Is that (pointing to seal on Government's exhibit "1") the official seal of the Portuguese Legation on the bottom? A. Yes.

(Deposition of J. A. Abranches Pinto.)

Q. Has Mr. Nogueira ever discussed the citizenship of Mrs. Iva D'Aquino with you?

A. He has with me sometimes, yes, especially later, course.

Q. Is Mr. Nogueira an attorney by profession in Portugal?

A. Well, of course, he has the law course in Portugal, but I don't know if he was. I suppose he was for a short time, I think so.

Q. Do you know of your own knowledge that he was?

A. Actually at present I don't know. Naturally he can be if he likes to be, he can be a lawyer in Portugal.

Q. Has Mr. Nogueira been trained in the legal profession in Portugal? A. Yes.

Q. Has Mr. Nogueira finished all the educational requirements to become an attorney?

A. Yes.

Q. To your own knowledge do you know if Nogueira is a member of the bar?

A. This I don't know. I am not sure.

Q. In your discussions with Mr. Nogueira concerning the citizenship of Mrs. D'Aquino, has he informed you that there is some controversy—

A. Yes, he did.

Q. Concerning the fact that Philip D'Aquino is a Portugal national? [12]

A. There is some doubt about the father's nationality. Of course if the father is not a Portu-

(Deposition of J. A. Abranches Pinto.)

guess the son will not be a Portuguese, but——

Q. And at the present time is there an investigation going on concerning the nationality of Mr. Philip D'Aquino?

A. Yes, the father D'Aquino.

Q. When Mrs. D'Aquino was married to Philip D'Aquino, you have testified, she acquired Portuguese citizenship? A. Yes.

Q. At that time did she lose her American citizenship?

A. I don't know, according to the American law.

Q. Did Mrs. D'Aquino discuss with you at the time she proposed to be married to Philip D'Aquino the possibility of losing her American citizenship?

A. No.

Q. As a result of this marriage?

A. No, we did not discuss it at that time.

Q. Mr. Pinto, was Mr. Nogueira a witness to the marriage? A. No, he was not in Japan.

Q. Has Mr. Nogueira asked you since the war if Mrs. D'Aquino had a conversation with you before she was married as to whether or not she would lose her American citizenship if she married Philip D'Aquino?

A. Since the war? You mean when the war started?

Q. Since the war has been over?

A. If I had some conversation——

Q. With Mr. Nogueira about the loss of the

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American citizenship of Mrs. D'Aquino in the event she married Mr. D'Aquino?

A. Of course, when the question of Mrs. D'Aquino as Tokyo Rose began, sometimes the question is, "is she a Portuguese citizen while she is married to D'Aquino; he is a Portuguese citizen, of course; she is a Portuguese because she was married with [13] D'Aquino in June, 1945."

Q. You are positive that Mrs. D'Aquino did not discuss with you prior to the time she married Philip D'Aquino the possibility of losing her American citizenship in the event she were married to Mr. D'Aquino?

A. No. I think about nationality we discussed nothing at that time but, of course, I think when they were married they knew that she became a Portuguese citizen. It is according to Portuguese law that any Portuguese marries with a foreigner that foreigner becomes a Portuguese. It is a fact.

Q. Did Mrs. D'Aquino tell you she wanted to retain her American citizenship when she married D'Aquino?

A. She did not tell anything about that. She told me her nationality and I told her it is written in the marriage document the place she was born and her American citizenship—

Q. And you gave Mrs. D'Aquino no advice whatever as to the loss of her American citizenship as a result of this marriage?

A. I have no idea to inform her on that.

(Deposition of J. A. Abranches Pinto.)

Mr. Storey: I want to make sure the record states that I reserve objection to the documents introduced into evidence in connection with this deposition, until the time of trial.

Redirect Examination

By Mr. Tamba:

Q. You have known Philip D'Aquino's father for many years? A. Yes.

Q. And you know he is a Portuguese citizen and national? A. Yes.

Q. The records of his registration have been destroyed, is that correct? A. Yes.

Q. Where, in what office?

A. In Portuguese Consulate in Yokohama. [14]

Q. He is presently registered in your office as a national and citizen of Portugal?

A. The father?

Q. Yes.

A. The father was registered already, when I arrived in Japan.

Q. Registered and known as a Portuguese citizen and national?

A. Yes, when I arrived.

Q. In Yokohama? A. Yes.

Q. That office was destroyed by an earthquake?

A. Yes.

Q. And you know that of your own knowledge?

A. Yes.

(Deposition of J. A. Abranches Pinto.)

Q. And he is presently registered in your office?

A. Registered in 1923 by the former Consul.

Q. He is registered now in your office?

A. Yes, in my office.

Q. Mr. Storey has referred to a document, which is marked Government's Exhibit "1," that does not change your opinion in any wise, does it?

A. No.

Q. And that is, if she were (voluntarily) living in America, or if she had married there it would be a different situation than if she was married in Japan?

A. No, it does not change my opinion.

/s/ J. A. ABRANCHES PINTO.

Japan,

City of Tokyo

American Consular Service—ss.

I do solemnly swear that I will truly and impartially take down in notes and faithfully transcribe the testimony of J. A. Abranches Pinto, a witness now to be examined. So help me God.

/s/ MILDRED MATZ.

Subscribed and sworn to before me this 13th day of May, A.D. 1949.

/s/ THOMAS W. AINSWORTH,

Vice Consul of the

United States of America.

[American Consular Service Seal.]

Service No. 876a; Tariff No. 38; No fee prescribed.

Japan,
City of Tokyo,
American Consular Service—ss.

CERTIFICATE

I, Thomas W. Ainsworth, Vice Consul of the United States of America in and for Tokyo, Japan, duly commissioned and qualified, acting under the authority of a certain stipulation for taking oral designations abroad and upon order of the United States District Court, made and entered March 22, 1949, in the Matter of United States of America, Plaintiff, vs. Iva Ikuko Toguri D'Aquino, Defendant, pending in the Southern Division of the United States District Court, for the Northern District of California, and at issue between United States of America vs. Iva Ikuko Toguri D'Aquino, do hereby certify that in pursuance of the aforesaid stipulation and court order and at the request of Theodore Tamba, counsel for the defendant Iva Ikuko Toguri D'Aquino, I examined J. A. Abranches Pinto, at my office in Room 335, Mitsui Main Bank Building, Tokyo, Japan, on the thirteenth day of May, A.D. 1949, and that the said witness being to me personally known and known to me to be the same person named and described in the interrogatories, being by me first sworn to testify the truth, the whole truth, and nothing but the truth in answer to the several interrogatories and cross-interrogatories in the cause in which the

aforesaid stipulation, court order, and request for deposition issued, his evidence was taken down and transcribed under my direction by Mildred Matz, a stenographer, who was by me first duly sworn truly and impartially to take down in notes and faithfully transcribe the testimony of the said witness J. A. Abranches Pinto, and after having read over and corrected by him, was subscribed by him in my presence; and I further certify that I am not counsel or kin to any of the parties to this cause or in any manner interested in the result thereof.

In witness whereof, I have hereunto set my hand and seal of office at Tokyo, Japan, this 26th day of May, A.D. 1949.

/s/ THOMAS W. AINSWORTH,
Vice Consul of the
United States of America.

[American Consular Service Seal.]

Service No. 998; Tariff No. 38; No fee prescribed.

[Endorsed]: Filed June 9, 1949.

DEFENDANT'S EXHIBIT NO. 1
IN PINTO DEPOSITION

(Translation)

Consulate of Portugal
(Coat of Arms)

Tokyo

Service of the Portuguese Republic
Certificate of Consular Registry No. 90

The Consul of the Portuguese Republic in Tokyo,

Makes it known that Felipe Jairus D'Aquino; Marital status single (Note of translator: The word "single" was lined out and replaced by pencil writing "married"), profession, newspaperman, son of Jose Filomeno d'Aquino and of Maria d'Aquino, born on the 26th day of March of 1921, a native of Yokohama, is a Portuguese citizen and is duly registered in the Register of this Consulate under No. 5 of Book No. 1 of inscriptions.

His last residence was Yokohama and he arrived on (date in blank) at this consular district.

He resides in Tokyo, 4 Tamuracho, 6-chome, Shiba-ku.

He proved his identity by consular inscription. Portuguese Consulate in Tokyo, on April 4, 1944.

Signature of the person being registered,

/s/ F. D'AQUINO.

/s/ J. A. ABRANCHES PINTO,
Consul.

(Rubber Stamp): Consulate of Portugal—Tokyo.
(Photograph).

(Rubber Stamp): Consulate of Portugal—Tokyo.
Characteristics: Height, 1,65 meters; Hair, black; Face, oval; Beard, has not; Eyes, brown; Nose, regular; Mouth, regular; Color, white..

This certificate is valid for the period of one year.

(Stamp): Portuguese Republic 12\$00 (escudos)
Consular Service.

(Rubber Stamp): Consulate of Portugal—Tokyo.

Paid at the rate or 0.20 the amount of Y 2.40 in accordance with Item No. 1 of the table of rates, this amount being entered in the book of entries under No. 1615. Tokyo, April 4, 1944.

/s/ A. PINTO.

(Rubber Stamp): American Consular Service,
Tokyo, Japan.

/s/ THOMAS W. AINSWORTH
American Vice Consul.

On the back:

“Revalidated for the period of two years until April 3, 1947. Portuguese Consulate in Tokyo, June 21, 1945.”

/s/ J. A. ABRANCHES PINTO.

(Rubber Stamp): Consulate of Portugal, Tokyo.

(Rubber Stamp): Gratis.

Translator's affidavit attached.

U. S. Consular Service certificate attached.

[Endorsed]: Filed Sept. 2, 1949. U. S. D. C.
Defts. Ex. EE.

DEFENDANT'S EXHIBIT NO. 2
IN PINTO DEPOSITION
(Translation)

Consulate of Portugal
(Coat of Arms)

Marriage Certificate

On the 18th day of June, 1945, was transcribed at this Consulate the marriage, celebrated in con-

formity with the canonic laws, of Felipe J. D'Aquino, a native of Yokohama, Japan, son of Jose Filomeno D'Aquino and of Maria D'Aquino with Ikuko Toguri D'Aquino, a native of Los Angeles, California, daughter of Jun Toguri and of Fumi Toguri.

Consulate of Portugal in Tokyo, on the 18th day of June, 1945.

/s/ J. A. ABRANCHES PINTO,
Consul.

(Rubber Stamp): Consulate of Portugal—Tokyo.

/s/ THOMAS W. AINSWORTH,
American Vice Consul.

(Rubber Stamp): American Consular Service,
Tokyo, Japan.

Translator's affidavit attached.

U. S. Consular Service certificate attached.

[Endorsed]: Filed Sept. 2, 1949. U. S. D. C.
Defts. Ex. FF.

DEFENDANT'S EXHIBIT NO. 3 IN PINTO DEPOSITION

(Translation)

Consulate of Portugal
Tokyo

I, Joao do Amaral Abranches Pinto, Consul of Portugal in Tokyo, Japan. Do hereby certify that in the book of records and transcriptions of marriages of this Consulate of Portugal in Tokyo,

on the back of page seven, page eight and back, there appears the record of marriage as follows:
Record No. 5—At the request of Filipe Jairus Testus d’Aquino, I, Joao do Amaral Ab-
 ranches Pinto, Consul of Portugal in Tokyo, tran-
 scribe hereunder the following record of marriage,
 performed in conformity with the canonic laws of
 the Catholic Chapel annexed to Sophia University
 of Tokyo, in Kojimachi-ku, Tokyo, on the nine-
 teenth day of the month of April, in the year
 nineteen hundred and forty-five, before the Rever-
 end Father J. B. Kraus, S.J.....
 On the nineteenth day of the month of April in the
 year nineteen hundred and forty-five, in the chapel
 annexed to the Catholic Sophia University of Tokyo,
 in Kojimachi-ku, Tokyo, before the Reverend Father
 J. B. Kraus, S.J. the following performed their
 marriage: the bridegroom Filipe Jairus Testus
 d’Aquino, newspaperman, residing in this capital,
 single, a native of Yokohama, Japan, born on the
 twenty-sixth day of March, in the year nineteen
 hundred and twenty-one, legitimate son of Jose
 Filomeno d’Aquino and Maria d’Aquino, and the
 bride: Ikuko Toguri, residing in this capital, single,
 North-American citizen, a native of Los Angeles,
 California, United States of North America, born
 on the fourth day of July, in the year nineteen
 hundred and eighteen, legitimate daughter of Jun
 Toguri and Fumi Toguri, her name becoming Ikuko
 Toguri d’Aquino.....
 And for the records, I transcribe this marriage rec-

ord in accordance with the terms of Article 36 of Decree Number 29970, published in the Government Diary Number 240 of October 13, of the year 1939, and in the Portuguese Civil Code, on presentation of the proofs, which are annexed to this record at the request of the bridegroom. Consulate of Portugal in Tokyo, on the eighteenth day of the Month of June, in the year nineteen hundred and forty-five.

/s/ J. A. ABRANCHES PINTO,
Consul.

/s/ THOMAS W. AINSWORTH,
American Vice Consul.

[(Stamped): American Consular Service.]

There follows the receipt of consular emoluments. Paid at the rate of exchange of 0.20 the amount of Forty Escudos (y 8.00) in accordance with item 20 of the table of rates, this amount being entered in the book of entries under No. 1620. Tokyo, June 18, 1945.—Signed, A. Pinto.—Fiscal stamp of the Consular Service duly authenticated by a rubber stamp reading: Consulate of Portugal—Tokyo. . . . Nothing else appearing in the record that I am consulting, I issued these presents, to which is affixed a stamp of this Consulate, signed by me on the fourth day of the month of November, in the year nineteen hundred and forty-eight.

Consulate of Portugal in Tokyo, on November 4, 1948.

/s/ J. A. ABRANCHES PINTO,
Consul.

(Rubber stamp): Consulate of Portugal—Tokyo.

(Stamp): (Portuguese Republic, 40\$00, Consular Service.)

(Rubber stamp): Paid at the rate of 11.00 the amount of Y440.00 (Escudos 40\$00) in accordance with item 25 of the table of rates, this amount being entered in the book of entries under number 258. Tokyo, November 4, 1918.

/s/ A. PINTO.

THOMAS W. AINSWORTH,
American Vice Consul.

(Stamped): American Consular Service.

(Consular Seal over wax.)

U. S. Consular Service Certificate attached.

[Endorsed]: Filed Sept. 2, 1949. U.S.D.C. Defts.
Ex. GG.

DEFENDANT'S EXHIBIT NO. 4 IN PINTO
DEPOSITION

Portuguese Consulate
Tokyo

To whom it may concern,

This is to certify that, Mr. Filipe Jairus d'Aquino, born in Yokohama on 26th March, 1921, married to Mrs. Ikuko Toguri d'Aquino, is a Portuguese national duly registered in this Consulate.

Portuguese Consulate in Tokyo, 4th November, 1948.

/s/ J. A. ABRANCHES PINTO.

(Rubber Stamp): Consulate of Portugal—Tokyo.
 (Stamp): Portuguese Republic 25:00 (escudos)
 Consular Service.

/s/ THOMAS AINSWORTH,
 American Vice Consul.

(Stamp): American Consular Service.
 American Consular Service certificate attached.

[Endorsed]: Filed Sept. 2, 1949. U. S. D. C.
 Defts. Ex. HH.

DEFENDANT'S EXHIBIT NO. 5
 IN PINTO DEPOSITION

(Translation)

Consulate of Portugal
 Tokyo

Affidavit

I, Joao do Amaral Abranches Pinto, Consul of
 Portugal in Tokyo.....
 Upon request and because it is the truth and to
 whom it may concern, do hereby certify that, the
 books and documents belonging to the files of the
 Consulate of Portugal in Yokohama having been
 destroyed on the occasion of the earthquake and
 subsequent fire of September 1, in the year 1923, it
 is not possible to furnish the record of birth cer-
 tificate of Filipe Jairus d'Aquino, married, born in
 Yokohama on March 26, 1921, son of Jose Filomeno
 d'Aquino and Maria d'Aquino.....

Consulate of Portugal in Tokyo, November 4, 1948.

The Consul,

/s/ J. A. ABRANCHES PINTO.

(Rubber Stamp): Consulate of Portugal—
Tokyo.

(Stamp): Portuguese Republic 25\$00 Consular
Service.

(Rubber stamp): Paid at the rate of 11.00 the
amount of Y275.00 (Escudos 25\$00) in accordance
with item 26 of the table of rates, this amount being
entered in the book of entries under No. 257.
Tokyo, November 4, 1948.

/s/ A. PINTO.

/s/ THOMAS W. AINSWORTH,
American Vice Consul.

(Stamp): American Consular Service.

Translator's affidavit attached.

American Consular Service Certificate attached.

[Endorsed]: Filed Sept. 2, 1949. U.S.D.C. Defts.
Ex. II.

DEFENDANT'S EXHIBIT NO. 6 IN PINTO
DEPOSITION
(Translation)

Consulate of Portugal
(Coat of Arms)
Tokyo

Service of the Portuguese Republic
Certificate of Consular Registry No. 159

The Consul of the Portuguese Republic in Tokyo

makes it known that Ikuko Toguri d'Aquino (by marriage to Filipe J. d'Aquino) marital status, married, profession, newspaperwoman, daughter of Jun Toguri and Fumi Toguri, born on July 4, 1918, a native of Los Angeles, California, is a Portuguese citizen and is duly registered in the Register of this Consulate under No. 5 of Book No. 1 of inscriptions.

Her last residence was in (blank) and she arrived in (date blank) at this consular district.

She resides in Setagaya-ku, Ikejirimachi, No. 396.

She proved her identity by previous consular certificate.

Consulate of Portugal in Tokyo, on September 10, 1946.

/s/ IKUKO TOGURI D'AQUINO,
Signature of the person being
registered.

/s/ J. A. ABRANCHES PINTO,
Consul.

(Rubber stamp): Consulate of Portugal—Tokyo.

(Photograph.)

Characteristics: Blank.

This certificate is valid for the period of one year.

(Stamp): Portuguese Republic 12\$00 Consular Service.

Paid at the rate of 0.20 the amount of Y2.40 in accordance with Item No. 1 of the table of rates,

this amount being entered in the book of entries under No. 1694. Tokyo, September 10, 1946.

/s/ A. PINTO.

/s/ THOMAS W. AINSWORTH,
American Vice Consul.

(Stamp): American Consular Service.

Translator's affidavit attached.

American Consular Service certificate attached.

[Endorsed]: Filed Sept. 2, 1949. U.S.D.C. Defts.
Ex. JJ.

DEFENDANT'S EXHIBIT NO. 8 IN PINTO
DEPOSITION

(Translation)

(Coat of Arms)

Consulate of Portugal
Tokyo

Service of the Portuguese Republic
Certificate of Consular Registry No. 190

The Consul of the Portuguese Republic in Tokyo makes it known that Filipe Jairus d'Aquino, marital status, married, profession, newspaperman, son of Jose Filomeno d'Aquino and Maria d'Aquino born on the 26th day of March, 1921, a native of Yokohama, is a Portuguese citizen and is duly registered in the Register of this Consulate under No. 5 of Book No. 1 of inscriptions, his last residence was Yokohama, and he arrived on (date in blank) at this consular district.

He resides in Tokyo, Setagaya-ku, 396 Ikejiri-machi.

He proved his identity by previous consular certificate. Consulate of Portugal in Tokyo, on June 30, 1947.

/s/ FILIPE J. D'AQUINO,

Signature of the person being registered.

/s/ J. A. ABRANCHES PINTO,

Consul.

(Photograph.)

(Rubber Stamp): Consulate of Portugal—Tokyo.

Characteristics: Blank.

This certificate is valid for the period of one year.

(Stamp): Portuguese Republic 12\$00 Consular Service.

Paid at the rate of 0.80 the amount of Y9.60 in accordance with Item 1 of the table of rates, this amount being entered in the book of entries under No. 1753. Tokyo, June 30, 1947.

/s/ A. PINTO.

/s/ THOMAS W. AINSWORTH,

American Vice Consul.

American Consular Service certificate attached.

[Endorsed]: Filed Sept. 2, 1949. U.S.D.C. Defts. Ex. LL.

GOVERNMENT'S EXHIBIT "I"
IN PINTO DEPOSITION

Consulate of Portugal

Tokyo, April 28, 1949.

No. 21

Proc. 2,2

Memorandum

Reference is made to the Diplomatic Section's memorandum of January 27th, 1949, concerning the nationality of Mrs. Iva Toguri de Aquino.

2. The Portuguese Diplomatic Agency wishes to advise the Section that, regardless of the fact that Mrs. Aquino could eventually have acquired the Portuguese citizenship by marriage (which in this case is a doubtful point still under investigation), she may not claim the Portuguese nationality while living in a country whose laws might also consider her as its national.

3. For further information, the Agency invites the Section's attention to the Portuguese Code of Civil Law which in its article 18 § 3 includes the above provision.

/s/ F. POY.

[Stamped]: Consulate of Portugal.

Tokyo, April 28th, 1949.

/s/ THOMAS W. AINSWORTH,
American Vice Consul.

(Stamped): American Consular Service.

[Endorsed]: Filed Sept. 2, 1949. U.S.D.C. U.S.
Ex. 71.

In the Southern Division of the United States
District Court for the Northern District of
California

No. 31712 R

UNITED STATES OF AMERICA,

Plaintiff,

vs.

IVA IKUKO TOGURI D'AQUINO,

Defendant.

DEPOSITION OF HEINRICH DUMOULIN

Deposition of Heinrich Dumoulin, taken before me, Thomas W. Ainsworth, Vice Consul of the United States of America, in Mitsui Main Bank Building, Room 335, in Tokyo, Japan, under the authority of a certain stipulation for taking oral designations abroad, and upon order of the United States District Court, made and entered March 22, 1949, in the Matter of the United States of America vs. Iva Ikuko Toguri D'Aquino, pending in the Southern Division of the United States District Court, for the Northern District of California, and at issue between the United States of America vs. Iva Ikuko Toguri D'Aquino.

The plaintiff appearing by Frank J. Hennessy, United States District Attorney; Thomas DeWolfe, Special Assistant to the Attorney General, and Noel Storey, Special Assistant to the Attorney General, and the defendant, appearing by Wayne N. Collins and Theodore Tamba.

The said interrogations and answers to the witness thereto were taken stenographically by Mildred Matz and were then transcribed by her under my direction, and the said transcription being thereafter read over correctly to the said witness by me and then signed by said witness in my presence.

It was orally stipulated between Mr. Tamba of the defense, and Mr. Storey of the prosecution, that the administering of the oath to the witness was waived.

It is Stipulated that all objections of each of the parties hereto, including the objections to the form of the questions propounded to the witness and to the relevancy, materiality and competency thereof, and the defendant's objections to the use of the deposition, or any part of the deposition, by plaintiff, on the plaintiff's case in chief, shall be reserved to the time of trial in this cause.

HEINRICH DUMOULIN

of Tokyo, Japan, of lawful age, testified as follows:

Direct Examination

By Mr. Tamba:

Q. Father Dumoulin, what is your full name?

A. Heinrich Dumoulin.

Q. And, Father, do you belong to the Society of Jesus?

A. Yes, I am a Jesuit.

Q. You are presently with the Sophia University in Tokyo?

A. Yes, staying at Sophia University as professor.

(Deposition of Heinrich Dumoulin.)

Q. What subjects do you teach at Sophia University?

A. Philosophy, and now religion.

Q. How long have you been with Sophia University?

A. I am staying at Sophia from the beginning of my stay in Japan, that is to say from 1935, and I belong to the staff of the University, but I don't remember that date.

Q. Father, you know a person by the name of Iva Toguri, also known as Iva D'Aquino? [2*]

A. Yes, Toguri—Ikuko, I know her. A person called Ikuko Toguri.

Q. Did she come to see you sometime in the year 1945, Father Dumoulin?

A. Yes, she came to see me together with Philip D'Aquino, asking me to—explaining to me their situation, and their desire to be married in the Catholic Church. Mr. D'Aquino had been a Catholic. He was a Catholic, and so they wanted to be married at the Catholic Church, and she wanted to become a Catholic, to be instructed and baptized before. I do not remember exactly what we talked about together but I know I came to the conclusion that the best way to do would be to have her instructed by a Father who could give the instruction in English. I, myself, was replacing at the time Father Heuvers, the parish priest of St. Theresa. He was the parish priest of the church and, as he was ill, I was replacing him. As I, myself, did not know

* Page numbering appearing at bottom of page of original Reporter's Transcript.

(Deposition of Heinrich Dumoulin.)

sufficient English I found that it would be better that she would be instructed by a Father who could give the instruction in English. I think she spoke Japanese but as she spoke English better than Japanese I came to the conclusion that it would be easier to have her instructed in English. I do not remember to what extent she was able to speak Japanese. I called Father Kraus, who speaks English perfectly, and Father Kraus gave the instructions and he was able to baptize her, if I am not mistaken one or two days before the marriage. (Witness consults paper purporting to be a baptismal certificate.) Yes, baptized the 18th of April and she was married on the 19th.

Q. Father, did you prepare the church for the marriage?

A. No, I don't remember it. It must have been the lay brother.

Q. Were you present at the marriage ceremony?

A. I was present later on in the parlor. We signed the documents and I saw the couple and I felicitated them. I remember that quite well that I saw them and felicitated them after the marriage, and I may say this (witness consults photostatic copy of purported marriage certificate), I may say, is the signature of Father Kraus. It is very characteristic of Father Kraus' handwriting to anybody who knew him.

Q. May I ask you where Father Kraus is today?

A. He died in 1946, I think in March. The day you can, of course, find out.

(Deposition of Heinrich Dumoulin.)

Q. What is this that you refer to as having Father Kraus' signature?

A. That is written by Father Kraus.

Q. The certificate of marriage?

A. Yes, and this is the signature of Father Kraus. Quite characteristic and anyone who knew him, I am sure, can tell his signature.

Mr. Tamba: May I offer this document in evidence. It is the certificate of marriage dated April 19, 1945, and I offer it in evidence as defendant's Exhibit "I." It is a photostatic copy.

Mr. Storey: No objection.

Q. May I show you a photostatic copy of another document (counsel hands document to witness), and ask you what that is?

A. That was written by myself, and is the testimony of baptism. I have written the whole document.

Mr. Tamba: I offer the photostatic copy of the baptismal certificate as defendant's Exhibit "2," in evidence. It bears the date April 18, 1945.

Mr. Storey: No objection.

Q. Father, I show you another document (counsel hands paper to witness), and ask you what that is?

A. Yes. I think—it is just a copy of what I have written.

Q. Is that a certificate of marriage?

A. It is the baptismal certificate. It should be a copy. It is [4] the signature of Father Heuvers,

(Deposition of Heinrich Dumoulin.)

who was the parish priest of the church. I took his place during his illness and now he is recovered.

Q. Is that your signature (Counsel points to paper)?

A. No, it is just a copy. I think it is an exact copy of what I have written. As far as I can see it is a copy of the photograph and that is what I have written.

Q. On the other side of this page (counsel points to the reverse side of the same document), may I ask what is on there?

A. Yes. That is a copy, too.

Q. I am referring to defendant's exhibit "1," for the purpose of the record, is this language on the back of this document I am showing you the same as that?

A. There are two books in the parish. . One book of baptismal records and one of matrimony records and that is a photograph taken of the book of baptismal records, Exhibit "2." That is, the photograph taken from the book of matrimony, Exhibit "1," which is the principal thing, and that I wrote myself on the inside, and on the reverse we make reference where the status of the person has changed, confirmation and first communion and marriage, and that is a copy.

Q. Do you remember who was present at the marriage, that is if you recall?

A. I remember. Father Kraus, and the couple, and there were certainly two witnesses present that

(Deposition of Heinrich Dumoulin.)

signed the document. Let me see (witness consults paper). Yes, Mr. Pinto and Rita D'Aquino.

Q. Their names are contained in Exhibit "1" of the record?

A. Yes. Of course these two documents are of the highest value, signed by these people and in this case by myself and Father Kraus and the couple, and these books are regarded of the highest value, and we had to save these books in case of incendiary— [5]

Q. Do you remember I came up to the university and looked at the books with you and Father Van?

A. Yes.

Q. What is Father Van's full name?

A. Van Overmeeren. I saw the Father first bring the books to you.

Q. How long did this course of instruction continue, if you remember?

A. I cannot exactly remember. When she came for the first time I don't remember the exact date of that but it must have been—I was replacing Father Heuvers and you can make sure about the sickness of Father Heuvers. I think he fell ill during the month of January, about the second half of January, and it must have been some time after that.

Q. Do you remember the day of the marriage, that there was a big air raid in Tokyo?

A. Yes, there was an air raid in Tokyo, and we had to take refuge and I remember that after coming from the refuge we went to the parlor and

(Deposition of Heinrich Dumoulin.)

were quite pleased that the ceremony and all things had taken place, that it was possible.

Q. After the marriage do you remember seeing Mrs. D'Aquino again?

A. I don't exactly. Maybe, but I have a faint remembrance, but I don't recall exactly.

Q. You have no recollection of her coming to church?

A. I think she came, but I could not say with certainty.

Q. Did she ever discuss the war with you, Father Dumoulin? A. Never.

Q. Did she ever discuss with you—well, did she appear to be sincere in becoming a member of your faith?

A. I had the impression that she wanted to be a Catholic and, as I told you the other day when you came to see us, I don't remember exactly her conversation, but first I must explain that I must have explained to Mr. D'Aquino and to Miss Toguri, that they could [6] be married in the Catholic Church without her being a Catholic; that it would be easy to have permission. That is a thing I always explain in such cases. It was my responsibility to explain that so that I must have explained that to the couple, and I remember that Father Kraus was quite satisfied about the way things were going on, but I don't remember any conversation with Father Kraus in exact terms, but matrimony took place and everything was all right.

(Deposition of Heinrich Dumoulin.)

Cross-Examination

By Mr. Storey:

Q. Father Dumoulin, did Miss Toguri tell you that she was an American citizen at the time that she married Mr. D'Aquino?

A. I cannot remember that. I cannot remember that.

/s/ H. DUMOULIN. [7]

Japan,

City of Tokyo,

American Consular Service—ss.

I do solemnly swear that I will truly and impartially take down in notes and faithfully transcribe the testimony of Heinrich Dumoulin, a witness now to be examined. So help me God.

/s/ MILDRED MATZ.

Subscribed and sworn to before me this twenty-ninth day of April, A.D. 1949.

/s/ THOMAS W. AINSWORTH,

Vice Consul of the

United States of America.

[American Consular Service Seal.]

Service No. 668a; Tariff No. 38; No fee prescribed.

Japan,
City of Tokyo,
American Consular Service—ss.

CERTIFICATE

I, Thomas W. Ainsworth, Vice Consul of the United States of America in and for Tokyo, Japan, duly commissioned and qualified, acting under the authority of a certain stipulation for taking oral designations abroad, and upon order of the United States District Court, made and entered March 22, 1949, in the Matter of United States of America, Plaintiff, vs. Iva Ikuko Toguri D'Aquino, Defendant, pending in the Southern Division of the United States District Court, for the Northern District of California, and at issue between United States of America vs. Iva Ikuko Toguri D'Aquino, do hereby certify that in pursuance of the aforesaid stipulation and court order and at the request of Theodore Tamba, counsel for the defendant Iva Ikuko Toguri D'Aquino, I examined Heinrich Dumoulin, at my office in Room 335, Mitsui Main Bank Building, Tokyo, Japan, on the twenty-eighth day of April, A.D. 1949, and that the said witness being to me personally known and known to me to be the same person named and described in the interrogatories, administering of the oath to the witness having been waived by oral stipulation between Theodore Tamba, counsel for the defendant, and Noel Storey, counsel for the plaintiff, his evidence was taken down and transcribed under my direction by Mil-

dred Matz, a stenographer, who was by me first duly sworn truly and impartially to take down in notes and faithfully transcribe the testimony of the said witness Heinrich Dumoulin, and after having been read over and corrected by him, was subscribed by him in my presence; and I further certify that I am not counsel or kin to any of the parties to this cause or in any manner interested in the result thereof.

In witness whereof, I have hereunto set my hand and seal of office at Tokyo, Japan, this 16th day of May, A.D. 1949.

/s/ THOMAS W. AINSWORTH,
Vice Consul of the
United States of America.

[American Consular Service Seal.]

Service No. 897; Tariff No. 38; No fee prescribed.

In the Southern Division of the United States
District Court for the Northern District of
California

No. 31712 R

UNITED STATES OF AMERICA,

Plaintiff,

vs.

IVA IKUKO TOGURI D'AQUINO,

Defendant.

DEPOSITION OF KATSUO OKADA

Deposition of Katsuo Okada, taken before me, Thomas W. Ainsworth, Vice Consul of the United States of America, in Mitsui Main Bank Building, Room 335, in Tokyo, Japan, under the authority of a certain stipulation for taking oral designations abroad, and upon order of the United States District Court, made and entered March 22, 1949, in the Matter of the United States of America vs. Iva Ikuko Toguri D'Aquino, pending in the Southern Division of the United States District Court for the Northern District of California, and at issue between the United States of America vs. Iva Ikuko Toguri D'Aquino.

The plaintiff appearing by Frank J. Hennessy, United States District Attorney; Thomas DeWolfe, Special Assistant to the Attorney General, and Noel Storey, Special Assistant to the Attorney General, and the defendant, appearing by Wayne N. Collins and Theodore Tamba.

It appearing that the witness Katsuo Okada could not intelligently testify in the English language and did well understand the Japanese language, one Makoto Matsukata, who also well understand said language, was employed as interpreter, and was sworn in as follows:

“You do solemnly swear that you know the English and Japanese languages and that you will truly and impartially interpret the oath to be administered and interrogatories to be asked of Katsuo Okada, a witness now to be examined, out of the English language into the Japanese language, and that you will truly and impartially interpret the answers of the said Katsuo Okada thereto out of the Japanese language into the English language, so help you God.”

The said interrogations and answers to the witness thereto were taken stenographically by Mildred Matz and were then transcribed by her under my direction, and the said transcription being thereafter read over correctly to the said witness by me and then signed by said witness in my presence.

It is Stipulated that all objections of each of the parties hereto, including the objections to the form of the questions propounded to the witness and to the relevancy, materiality and competency thereof, and the defendant's objections to the use of the deposition, or any part of the deposition, by plaintiff, on the plaintiff's case in chief, shall be reserved to the time of trial in this cause.

KATSUO OKADA

of Tokyo, Japan, of lawful age, being by me duly sworn, deposes and says:

Direct Examination

By Mr. Tamba:

Q. Mr. Okada, do you live in Japan?

A. Yes.

Q. Are you a citizen and national of Japan?

A. Yes.

Q. Were you a member of an organization known as the Kempei Tai? [2*]

A. Yes.

Q. How many years were you in the Kempei Tai?

A. Five years.

Q. Did you have a rank in the Kempei Tai?

A. Yes, I did.

Q. What was that rank?

A. Master Sergeant.

Q. Did the Tokyo Kempei Tai always wear uniforms?

A. As for myself, most of the time I wore ordinary civilian clothes, but on special occasions I wore my uniform.

Q. Was that true of most members of your organization?

A. It depended on the section and it was divided into those who wore uniforms and those that certain days in the month wore uniforms and other times wore ordinary civilian clothes.

Q. You were a friend of Iva D'Aquino?

* Page numbering appearing at bottom of page of original Reporter's Transcript.

(Deposition of Katsuo Okada.)

A. Yes.

Q. You were a friend of Philip D'Aquino?

A. Yes.

Q. And you are also a friend of Mrs. Kido and Mr. Kido, the people with whom the D'Aquinos lived, is that correct? A. No mistake.

Q. Now, you have talked with Mr. D'Aquino about this case many times, have you not?

A. Is it concerning Iva?

Q. Yes, concerning Iva.

A. While Iva was in Sugamo Prison I talked with him many times. After Iva was taken to the United States I met him six or seven times.

Q. And you have met me three times?

A. Three times, including today.

Q. When did you first meet Iva D'Aquino?

A. Approximately October, 1944. [3]

Q. Are you sure you did not meet her in 1943?

A. I am not sure whether it was 1943 or 1944, but it was at the time Tojo quit the Prime Ministership.

Q. Into how many organizations was the Kempei Tai divided?

A. Three sections that worked outside.

Q. What were those sections?

Mr. DeWolfe: Object to that as incompetent, irrelevant, immaterial.

The Court: Objection sustained.

Mr. Collins: The purpose of that, if it please the Court, was to show the sections and the divi-

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sions of the sections and their respective functions, of the sections, insofar as their activities were concerned which directly related to checks upon the defendant.

The Court: The Court has ruled.

(A. Thought Control, it was divided into two sections; communistic activities, and activities contrary to communistic activities; besides that there was a section called "foreign nationals section," such as Niseis and foreigners.)

Q. What section did you belong to, Mr. Okada?

Mr. DeWolfe: Object to that as incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. I was in the Thought Control Section, in the part that was investigating rightists organizations, one that was not investigating communism.)

Q. Do you know whether or not members of the Kempei Tai organizations were watching Mrs. D'Aquino? A. Yes, I know.

Q. Do you know whether or not members of the Metropolitan Police were watching Iva D'Aquino?

A. Yes, I do.

Q. Do you know the names of the Kempei Tai who were watching Iva D'Aquino?

A. There were two. I don't know the name of one, but I do know the last name of one, which is Tanaka.

Q. What became of the records of the Kempei Tai?

(Deposition of Katsuo Okada.)

Mr. DeWolfe: Object to that as incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(A. The papers connected with our work were burned on approximately the tenth of August, 1945, when it was obvious that we had lost the war.)

Q. Did you ever discuss the war with Iva D'Aquino?

A. Do you mean during the war?

Q. Yes, during the war?

A. Yes, I have. [4]

Q. How many times?

A. So many times that I cannot possibly count.

Q. What did she say to you and what did you say to her about the war?

A. Fundamentally, the point that was brought out was that Iva did not know when the war would be over but, finally, when the war was over Japan would lose.

Q. What did you say to her when she told you that information?

A. As to who was going to win or lose the war was up to the way the individual thought. "You, as a person who has had long residence in the United States, you know the strength of the United States well. So, it is probably correct that you say America is going to win the war. I don't want to think that Japan will lose the war. For you to talk about the fact that Japan is going to lose the war is not good because you will be violating Jap-

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anese law and, therefore, I caution you that you better not talk about this to outsiders. If you talk about such things to people other than myself you will be investigated by the Kempei gendarme and the Metropolitan Police. I am also a Kempei, but I am also your friend. I don't want to accuse you of a crime, but I am going to caution you of this as a friend."

Q. Did you have authority to arrest Iva D'Aquino, if you wished to do so?

A. Yes, I did.

Q. In your acquaintanceship with Iva D'Aquino did you consider her pro-American or pro-Japanese?

Mr. DeWolfe: Object to that as calling for a conclusion.

The Court: Objection sustained.

(A. I thought she was pro-American.)

Q. Was Iva D'Aquino one of the Nisei watched by the Kempei Tai, if you know?

A. Yes, she was.

Q. Did Iva D'Aquino ever participate in air raid drills? [5]

A. I have never seen her.

Q. Did she ever tell you that air raid drills were silly because Japan was going to lose the war, or was losing the war?

A. She constantly said Japan would lose the war, but she really had not much thought for air raid drills, and she said air raid drills were things for children to do.

(Deposition of Katsuo Okada.)

Q. Was she ever called a spy in the neighborhood where she lived?

Mr. DeWolfe: Object to that as hearsay, not proper direct examination.

The Court: Objection sustained.

(A. The children used to call her "spy" after she had passed. I have heard this, but that definition of spy is in the broad sense, not in the narrow sense, meaning that anybody that did not help Japan's effort was considered a spy. The first big air raid was the 10th of March, 1945. At that time I was staying at Iva's home. The people in the neighborhood were all outside preparing water. Iva and Philip, looking in the distance where it was burning, said in a loud voice: It's burning, it's burning," they said incendiary bombs drop and they said they were like fireworks, and were making a lot of noise. As far as incendiaries were concerned, they would drop one from a plane and then they would all scatter just like fireworks. At that time I heard people in the neighborhood yelling or saying: "Spy," to them.)

Q. Do you know what nationality Philip D'Aquino has? A. I do.

Q. What is his nationality?

A. I heard that it was Portuguese.

Q. Do you know the nationality of Philip D'Aquino's father? A. I have heard it.

Q. What was his nationality?

A. The same. Portuguese, so I have heard.

(Deposition of Katsuo Okada.)

Q. What became of Philip D'Aquino's father during the war, if you know?

A. I heard——

Mr. DeWolfe: Object to that as incompetent, irrelevant and immaterial.

The Court: Sustained.

(A. I heard that he was in Karuizawa during the war with other foreigners.) [6]

Q. Was he forcefully taken from Tokyo or Yokohama, do you know?

Mr. DeWolfe: Same objection, sir.

The Court: Same ruling.

(A. During the war all those foreign nationals of opposing countries were forcefully evacuated to Karuizawa or Hakone.)

Q. Could a Nisei get into an alien internment camp?

Mr. DeWolfe: Object to that as incompetent, irrelevant and immaterial; calling for a conclusion.

The Court: Objection sustained.

(A. They did not go as their number was large.)

Q. Do you remember an occasion when Mrs. Kido broke up with her relatives on account of Iva and Philip D'Aquino living with her?

Mr. DeWolfe: Just a moment, Mr. Tamba. Object to that as incompetent, irrelevant and immaterial, hearsay, calling for a conclusion.

The Court: Sustained.

Mr. Collins: This goes to the question of whether or not, if Your Honor please, there was any duress

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in the neighborhood against the defendant which compelled, or which caused the Kidos at least, to think about ousting the defendant from their home.

The Court: Read the question. I don't recall that that was embodied in the question.

(Question read.)

The Court: Objection sustained.

(A. The Kido home, in which Iva and Philip were living was next to Kido's brother's home and due to the fact that the neighbors did not say good things about the D'Aquinos living in the house they separated their relationship, but people next door (the brother's family) had encouraged them to put out Iva and Philip.)

Q. Was Iva living with Mrs. Kido before she married D'Aquino?

A. She was living there before she was married.

Q. Was she living there when you first met her?

A. The first time I met Iva was when she came to visit the Kido's at the time I was there. Shortly after I met Mrs. Kido and she had said, "that girl wants me to let her live here."

Mr. DeWolfe: Object to that as hearsay.

The Court: Objection sustained.

Mr. DeWolfe: The balance of the answer is conversation between a Mrs. Kido and this witness.

Mr. Collins: It goes to the question of the duress, exercised upon the defendant, if Your Honor please, concerning a place to live.

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The Court: That doesn't take it out of the hearsay rule.

Mr. Collins: It is a question of advice given by a Kempei tai who was an officer of the Japanese government to the landlady where the defendant resided.

The Court: The Court has ruled. Proceed. You have a record.

(A. The first time I met Iva was when she came to visit the Kidos at the time I was there. Shortly after that I met Mrs. Kido and she said: "That girl wants me to let her live there, but do you think it is advisable?" I said: "During the war, to let foreigners live in your house will hamper your relations with the neighbors, but if you caution that foreigner well, so she does not commit any mistakes, and you are cautious yourself, I think it will be all right to let them live there.")

Q. Do you know whether or not Iva ever bought war bonds? A. She never bought any.

Q. Do you know whether or not the people of Japan could change jobs during the war?

A. Do you mean Japanese people?

Q. Yes.

A. Japanese people could change their jobs.

Q. How about foreigners?

A. It was free for foreigners to change their jobs, but depending on their jobs. [7]

Q. Was it easy for people who were foreigners to get jobs in Japan during the war?

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A. Even if they were good in Japanese it was very hard.

Q. But Iva D'Aquino spoke very good Japanese?

A. She could speak well enough not to hamper her daily living.

Q. Was it good Japanese?

A. If an ordinary person heard it they could determine right away that she was a foreigner.

Q. Were you able to tell foreigners when you heard them speak Japanese?

A. When I first met her I could decide.

Q. Did you ever see a post card from the radio station, Tokyo, ordering Iva D'Aquino to return to her work? A. Yes.

Mr. DeWolfe: Just a moment, Mr. Tamba. I ask that answer go out and object to the question on the ground that it calls for something not the best evidence.

The Court: Read the question, Mr. Reporter.

(Question read.)

Mr. Collins: This does not ask for the content.

The Court: The objection will be sustained. Let the answer go out.

Q. Were ordinary people permitted to talk with prisoners of war?

A. Not ordinary townspeople.

Q. Do you know whether or not Iva D'Aquino bought food through the black market for prisoners of war?

A. Yes, I know, but Iva did not buy the food

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directly herself. She had Mrs. Kido buy it for her.

Q. Did Iva D'Aquino ever tell you what kind of work she was doing at the radio station?

A. I asked her once.

Q. What did she tell you?

A. She said that "four or five days out of the week I broadcast a script that was written by prisoners of war or other people in Radio Tokyo. The people that write that script are American prisoners of war, and Australian soldiers, and Filipino soldiers. Those people write it, and I broadcast in the evenings ten to fifteen minutes."

Q. Did Iva D'Aquino ever tell you that she discussed the war with [8] prisoners of war?

A. Yes.

Q. What did she tell you about it?

A. "The American, Australian and Filipino soldiers cannot hear news about the war." The news that she heard from other people she would write on a little memo and when she went to Radio Tokyo she would put it under something and give it to them. The prisoners were very appreciative of this.

Q. Do you know whether or not Iva D'Aquino had access to short wave news broadcasts from the United States?

A. I think she could listen to it at the broadcasting station. At that time you could not listen to it in town.

Q. Did she tell you that she had heard short wave broadcasts?

A. Yes, she did.

(Deposition of Katsuo Okada.)

Q. Did she tell you that she got information from her husband who was working for Domei?

A. Philip worked for Domei and there were people that were listening to the short wave broadcasts in Radio Tokyo. Those people contributed to her information.

Cross-Examination

By Mr. Storey:

Q. Mr. Okada, do you recall that you had a discussion with me immediately prior to this deposition?
A. Yes, I do.

Q. Do you recall that during that discussion you told me that you first met Mrs. D'Aquino in October, 1944?

A. Yes, I do remember, but as to the date I don't remember whether it was the eighteenth year of Showa, which is 1943, or the nineteenth year of Showa, which is 1944. I know it is the year that Tojo quit.

Q. Mr. Okada, how long have you known Mrs. Kido?

A. I am not sure of the year but I think it is 1942 or 1943.

Q. When did Iva move to the home of Mrs. Kido? [9]

A. I think it is the time when Tojo quit.

Q. How far was your home from the home of Mrs. Kido?

A. In the Japanese way of counting, two and one-half RI to three RI.

(Deposition of Katsuo Okada.)

Q. How often were you in the home of Mrs. Kido?

A. At the most once a week, and when I was busy, about once every two weeks.

Q. Where was Mr. Kido at this time?

A. He was at war in Manchuria.

Q. When you first met Iva, was she married?

A. Do you mean with Philip?

Q. Yes.

A. No, she had not married Philip.

Q. Was Philip living there with Iva from the time when you first met her?

A. When I first met her she was just coming there alone, and then—I am quite sure, but shortly after that Philip came there.

Q. Approximately what date did Philip come there?

A. The first time I was introduced to Philip was about one month after I was first introduced to Iva.

Q. Was he living there at the time?

A. He had a house in Atsugi and his baggage was in Atsugi, and he would commute to the Tokyo Domei from Atsugi, and there were times when he would stay at Mrs. Kido, and times when he would go directly home to Atsugi. Iva was in Atsugi before she came to Kido's place.

Q. Mr. Okada, do you consider yourself a very close friend to the D'Aquino's?

A. As the time that I was associated with them was such as it was I think we were close friends, but I do not know how they felt.

(Deposition of Katsuo Okada.)

Q. Mr. Okada, you have testified that you knew that the Kempei Tai was watching Miss Toguri, did the Kempei watch all foreign [10] nationals who were registered in Japan?

A. The Kempei kept surveillance over all neutrals and enemy country nationals.

Q. Did the Kempei also keep certain Japanese nationals under surveillance? A. Yes.

Q. Did Iva know that you were a member of the Kempei when you first met her and during your later associations with her?

A. Yes, she did.

Q. And during this time Iva was still very friendly with you? A. Yes.

Q. Mr. Okada, you have testified that you were told—

Mr. DeWolfe: I am not going to offer the next question because it is related to hearsay matter that went out on direct examination.

The Court: Very well.

Mr. DeWolfe: The next appears at line 17.

(Q. Mr. Okada, you have testified that you were told Philip D'Aquino's father was evacuated to a recreational town, Karuizawa?

A. After the war, when D'Aquino's father came back to Atsuki I talked with him.)

Q. What other foreign nationals were evacuated to this area?

A. I don't know in detail, but I know that the foreigners were transferred—evacuated to Karui-

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zawa and Hakone, with the exception of those who were necessary to Japan.

Q. Were these foreign nationals evacuated to this area because they were considered dangerous to the internal security of Japan?

A. That, and one more thing, that they did not want any injuries to be brought on foreign nationals by the Japanese.

Q. Then the Niseis were not considered dangerous to Japan—the ones who were working in Tokyo?

A. That was not my responsibility to determine that and, therefore, I do not know, but as the numbers of Niseis, Manchurians and Chinese were great I do not think that they had the facilities to take them away.

Q. Could any Japanese national quit any job at any time he desired during the war?

A. As far as principle was concerned, they were free. Any healthy [11] people which were not working, according to a law, Choyorei, were forcefully made to work in factories necessary to the war effort. Those people were the same as soldiers and unless they were taken sick, they were not allowed to quit.

Q. If a Japanese national working in one of these war factories were to be absent from his plant would he receive a post card instructing him to come back to work when he was physically able to work?

A. There were times when they were called out

(Deposition of Katsuo Okada.)

by post card or the factory personnel would come and take him off to the factory, and it was also a crime for those who said they were sick if they were not sick, or ran away.

Q. You have testified that Iva bought food which she gave to the prisoners of war. What were these prisoners of war doing in Japan at that time?

A. In the case of Iva, most of them were working in the broadcasting station.

Q. They were working for the Japanese Government at the broadcasting station?

A. Yes, they were forcefully made to work there.

Q. What were they doing, were they broadcasting?

A. I have never seen them but according to Iva's story they would write script or broadcast.

Q. Mr. Okada, were you ever physically present when Mrs. D'Aquino was questioned by the Kempei? I mean when the Kempei was talking to Miss Toguri personally?

A. I have never seen her talking directly to the Kempei Tai but I have seen her talk to the police.

Redirect Examination

By Mr. Tamba:

Q. Mr. Okada, the Kido family comes from the town where you were born and reared?

A. Yes, where Mr. Kido came from. [12]

Q. And you have been a friend of Mr. Kido's for many years, I assume.

A. Yes.

(Deposition of Katsuo Okada.)

Q. Mr. Okada will you tell us how the Kempei Tai investigated or worked on a case?

Mr. DeWolfe: Objected to incompetent, irrelevant and immaterial.

Mr. Collins: The matter was developed on cross-examination.

Mr. DeWolfe: I don't think it was gone into on cross-examination.

The Court: What have you in mind?

Mr. Collins: Well, as I say, it has a relation with the balance of it. It is a question of how the Kempei tai lists people and the type of surveillance to which they subject them, depending upon their classification as to whether they were foreign nationals or Japanese nationals. It is a matter within the personal knowledge of this Kempei tai master sergeant.

The Court: In the interest of time I will allow it.

A. Do you mean in regards to foreign nationals, or somebody else?

Q. In regards to foreign nationals, or any case that was being investigated.

Mr. DeWolfe: Just a moment. Object to it as incompetent, irrelevant and immaterial.

The Court: Objection will have to be sustained.

(A. Cases are started by people. That is why you investigate the person first. Do you just mean the Kempei Tai or the police too?)

Q. Well, the Kempei Tai.

(Deposition of Katsuo Okada.)

Mr. DeWolfe: Same objection and then there is an answer about a page long about investigational procedure.

The Court: These matters have no relation to this case.

Mr. Collins: If your Honor please, you see the question was split, but it comes to a question of the duties of Kempei tai in so far as foreign national are concerned and the interference to which they subjected foreign nationals, depending upon the type what type they put them into; that is, either they divided them into rightists or leftists.

The Court: Well, I don't know where I got this thought, but it seems to me that running through the record it appears that their duty was that of a policeman in comparison with our own. Somebody suggested that. Am I in error in that question?

Mr. Collins: It is little more than that. From the deposition of this very officer of the Kempei tai. Because they were the thought control police.

The Court: Read the question, Mr. Reporter.

(Question read.)

Mr. De Wolfe: And then there is a long answer that has no bearing on the facts or the defendant in this case. It is very general.

Mr. Collins: She falls in the classification as being subjected to the interference of the Kempei tai as a foreign national and this answer relates directly to that, stating too, that every foreign na-

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tional and one other type, have always two policemen together with two Kempei tai attached.

The Court: It did not matter whether it was two or four. The objection will be sustained.

(A. In the Kempei Tai there are books listing foreign nationals, communists, rightists, and many other such books, and among many Kempei Tai they decide who is responsible for what. The Kempei Tai has the responsibility for foreign nationals or communists. They will first investigate their residence and then will question the neighbors as to the necessary things. That is carried on during several times, and from among those they would pick out those who they think are suspicious. They will survey those which they consider especially suspicious from what the neighbors say, and if they are a foreigner and acting in a way of a spy they will arrest them. If the communist is also conducting underground activities they will arrest him, and on one foreigner they will always have one Kempei Tai from the headquarters and one from the section. There are also two from the police. In the case that the foreigner or the communist moves the Kempei will send their card to the Kempei detachment in that area and the police will send their card to the area to which the person has moved, and so to every foreigner and communist there are always two policemen and two Kempei attached.) [13]

Japan,
City of Tokyo,
American Consular Service—ss.

I do solemnly swear that I will truly and impartially take down in notes and faithfully transcribe the testimony of Katsuo Okada, a witness now to be examined. So help me, God.

/s/ MILDRED MATZ.

Subscribed and sworn to before me this 26th day of April, A.D. 1949.

/s/ THOMAS W. AINSWORTH,
Vice Consul of the United
States of America.

[American Consular Service Seal.]

Service No. 632a; Tariff No. 38; No Fee prescribed.

Japan,
City of Tokyo,
American Consular Service—ss.

CERTIFICATE

I, Thomas W. Ainsworth, Vice Consul of the United States of America in and for Tokyo, Japan, duly commissioned and qualified, acting under the authority of a certain stipulation for taking oral designations abroad, and upon order of the United States District Court, made and entered March 22, 1949, in the matter of United States of America, Plaintiff, vs. Iva Ikuko Toguri D'Aquino, Defendant, pending in the Southern Division of the United

States District Court, for the Northern District of California, and at issue between United States of America vs. Iva Ikuko Toguri D'Aquino, do hereby certify that in pursuance of the aforesaid stipulation and court order and at the request of Theodore Tamba, counsel for the defendant Iva Ikuko Toguri D'Aquino I examined Katsuo Okada, at my office in Room 335, Mitsui Main Bank Bulding, Tokyo, Japan, on the twenty-sixth day fo April, A.D. 1949, using as interpreter Makoto Masukata, who was by me first duly sworn truly and impartially to interpret the oath to be administered and interrogatories to be asked of the witness out of the English into the Japanese language, and truly and impartially to interpret the answers of the witness thereto out of the Japanese language into the English language; and that the said witness being to me personally known and known to me to be the same person named and described in the interrogatories, being by me first sworn to testify the truth, the whole truth, and nothing but the truth in answer to the several interrogatories and cross-interrogatories in the cause in which the aforesaid stipulation, court order, and request for deposition issued, his evidence was taken down and transcribed under my direction by Mildred Matz, a stenographer who was by me first duly sworn truly and impartially to take down in notes and faithfully transcribe the testimony of the said witness Katsuo Okada, and after having been read over and corrected by him, was subscribed by him in my presence; and I fur-

ther certify that I am not counsel or kin to any of the parties to this cause or in any manner interested in the result thereof.

In witness whereof, I have hereunto set my hand and seal of office at Tokyo, Japan, this 12th day of May, A.D. 1949.

/s/ THOMAS W. AINSWORTH,
Vice Consul of the United
States of America.

[American Consular Service Seal.]

Service No. 861; Tariff No. 38; No fee prescribed.

[May 17, 1949.]

In the Southern Division of the United States
District Court for the Northern District of
California

No. 31712 R

UNITED STATES OF AMERICA,
Plaintiff,

vs.

IVA IKUKO TOGURI D'AQUINO,
Defendant.

DEPOSITION OF
KAZUYA MATSUMIYA

Deposition of Kazuya Matsumiya, taken before me, Thomas W. Ainsworth, Vice Consul of the United States of America, in Mitsui Main Bank Building, Room 335, in Tokyo, Japan, under the authority of a certain stipulation for taking oral designations abroad, and upon order of the United States District Court, made and entered March 22, 1949, in the Matter of the United States of America vs. Iva Ikuko Toguri D'Aquino, pending in the Southern Division of the United States District Court, for the Northern District of California, and at issue between the United States of America vs. Iva Ikuko Toguri D'Aquino.

The plaintiff appearing by Frank J. Hennessy, United States District Attorney; Thomas DeWolfe, Special Assistant to the Attorney General, and Noel Storey, Special Assistant to the Attorney General,

and the defendant, appearing by Wayne N. Collins and Theodore Tamba.

The said interrogations and answers to the witness thereto were taken stenographically by Mildred Matz and were then transcribed by her under my direction, and the said transcription being thereafter read over correctly to the said witness by me and then signed by said witness in my presence.

It Is Stipulated that all objections of each of the parties hereto, including the objections to the form of the questions propounded to the witness and to the relevancy, materiality and competency thereof, and the defendant's objections to the use of the deposition, or any part of the deposition, by plaintiff, on the plaintiff's case in chief, shall be reserved to the time of trial in this cause.

KAZUYA MATSUMIYA

of Tokyo, Japan, of lawful age, and employed by CI&E Section, SCAP, being by me duly sworn, deposes and says:

Direct Examination

By Mr. Tamba:

Q. What is your full name, sir?

A. Kazuya Matsumiya.

Q. And what is your present business and occupation?

A. I am working as an adviser in the CI&E, SCAP.

Q. And you were born in Japan? A. Yes.

(Deposition of Kazuya Matsumiya.)

Q. You have had some education in the United States, have you, sir? A. Yes.

Q. And what schools did you attend in the United States?

A. I attended Earlham University, Richmond, Indiana.

Q. Do you hold a degree from that school?

A. Yes.

Q. Was that a Quaker school? A. Yes.

Q. Did you attend any other schools in the United States?

A. After graduating from Earlham I attended for one year at Columbia University and did graduate work there. [2*]

Q. Did you attend other schools there besides those two you mentioned?

A. After that I studied at Hartford Seminary, from where I got a MA Degree.

Q. Have you taught in any American university?

A. Yes.

Q. In what university have you taught?

A. University of California, Berkeley.

Q. How long did you teach there?

A. One year.

Q. Do you know a person by the name of Iva Toguri, also known as D'Aquino? A. Yes.

Q. And when and where did you first meet this person, sir? A. I met her in Tokyo.

Q. Under what circumstances?

* Page numbering appearing at bottom of page of original Reporter's Transcript.

(Deposition of Kazuya Matsumiya.)

A. She came to my father's school which is called the School of Japanese Language and Culture.

Q. When was that? Do you remember the year and date?

A. I don't remember the date and year exactly but before the war, probably '40.

Q. Did she attend your school? Was she enrolled in your school? A. Yes, she did.

Q. And for how long a period of time was she in your school?

A. About a year and a half—she was a little less than a year and a half.

Q. She registered there in September, 1941?

A. Before the war?

Q. Yes. A. I believe it was that.

Q. In any event she registered at your school before the war? A. Yes. [3]

Q. Was your school destroyed in the air raids?

A. Yes.

Q. And the records of the school were destroyed? A. Yes.

Q. And your school was a school which catered to adult classes, to people who were either missionaries or in the diplomatic service, is that correct?

A. Yes.

Q. Do you know whether or not Iva Toguri had a good knowledge of the Japanese language?

A. In my impression she was a rather poor student in language.

(Deposition of Kazuya Matsumiya.)

Q. In other words, she did not know Japanese very well? A. Very little.

Q. And she did not have much aptitude for acquiring a knowledge of the language?

A. The main reason for that was she had not attended a Japanese school in America. Ordinarily Niseis who came to Japan had previously had training in Japanese schools in California—or in America, but she did not have much training in Japanese in America.

Q. Now, do you know what her financial condition was at the time she attended your school?

A. Well, she was in a rather financially difficult situation.

Q. Did you or your family do anything to assist her financially? A. Yes, I did.

Q. What did you do, sir?

A. Well, firstly at that time I was writing a book on Japanese grammar, in English, so that I used her for typing the manuscript, and secondly, my wife also gave her some work teaching piano lessons to my children and our friends' children.

Q. And that was done in order to assist her to pay her tuition, is that correct? [4] A. Yes.

Q. Can you tell us what her attitude was towards the Japanese people generally, if you know.

Mr. DeWolfe: Object to that as calling for a conclusion.

(Deposition of Kazuya Matsumiya.)

(A. Generally speaking she was rather critical about the Japanese.)

Q. Do you know what the Kempei Tai organization was, Mr. Matsumiya? A. Yes.

Q. What was that, sir?

A. Well—organization of the Kempei Tai?

Q. Yes, in other words, they were the secret police, were they not?

A. Yes, they had that section of Kempei Tai.

Q. Did they ever check your school with reference to Iva Toguri?

A. Not specifically Miss Toguri, but my students in general.

Q. How often did they check your school?

A. They came about twice a week.

Q. Did any other Japanese organization check your school with reference to Iva Toguri or any of your other students? A. The police.

Q. That would be the Metropolitan police?

A. Yes, Atago Police Station.

Q. How often did they check your school with reference to the students or Miss Toguri?

A. About once a week, or so.

Q. Did any of these calls by the Kempei Tai or the local police disturb your school program?

A. Well, they did not disturb the actual work but certainly they disturbed me. I was executive secretary.

Q. Did Miss Toguri have occasion to relate to you her experiences in the United States?

(Deposition of Kazuya Matsumiya.)

A. Yes, she did.

Q. With reference to what?

A. Well, she was telling me about her family, and particularly [5] that she was working through her college by assisting her father. For instance, driving the trucks from the farm to the city. I gathered she was very independent in a sense.

Q. From what you know of Miss Toguri and her association with you while she was attending your school, can you tell us whether she was pro-American or pro-Japanese?

Mr. DeWolfe: Object to that as calling for a conclusion, incompetent.

The Court: Objection sustained.

(A. In my judgment she was rather pro-American.

Q. Incidentally, do you specialize in any particular type of work?

A. Well, I am in measurement work.

Q. Have you ever done any work in social psychology? A. Yes.

Q. You have had experience in that field of endeavor? A. Yes.

Q. Were you familiar with the conditions that existed in Japan during the war with reference to the Nisei people here?

Mr. DeWolfe: Objected to as calling for a conclusion, too general.

The Court: Objection sustained.

(A. During the war all Niseis were in a very

(Deposition of Kazuya Matsumiya.)

difficult position. Generally speaking you can divide them up in two groups. One is rather pro-Japanese and the other is pro-American, and, of course, the pro-American group was in a more difficult position than the other.)

Q. Do you have any knowledge of Miss Toguri going to the American consulate in Yokohama in an attempt to return to the United States?

A. Yes.

Q. What information do you have on the subject?

A. She told me she was trying to go back to America but she could not succeed.

Q. Did she give you any reason for her inability to successfully return to America? A. No.

Q. Incidentally, you left Tokyo at some later date because you were suspected of being pro-American yourself, is that right?

Mr. DeWolfe: I object to that as incompetent, irrelevant and immaterial.

The Court: Objection sustained.

Mr. Collins: And then cross-examination. [6]

(A. Yes.)

Cross-Examination

By Mr. Storey:

Q. Mr. Matsumiya, when is the last time you saw Miss Toguri?

A. I have not seen her since she left the school.

Q. And give us your best recollection when Miss Toguri entered your school.

(Deposition of Kazuya Matsumiya.)

A. It was before the war.

Q. Was it 1936, 1937?

A. I think it was about '40, I think.

Q. What is your best recollection?

A. 1940, about that time, I think.

Q. How long did she remain in your school?

A. About a year and a half.

Q. After she left your school you never saw her any more?

A. No.

Q. You never talked to her any more?

A. No.

Q. Would you be able to recognize Miss Toguri?

If I showed you a group photograph would you be able to recognize Miss Toguri among the other Japanese persons?

A. What do you mean—

Q. If I showed you several pictures of Japanese would you be able to recognize her—

A. Yes, I can recognize her.

Q. Did Miss Toguri ever indicate to you in a conversation whom she wanted to win the war?

A. I don't remember exactly.

Q. When did you leave Tokyo, Mr. Matsumiya?

A. Well, it was March '44. I evacuated my family to Karuizawa.

Q. During the time you knew Miss Toguri, did you ever loan her any personal property to help her out?

A. Please, again. [7]

(Question repeated by stenographer.)

A. Yes.

(Deposition of Kazuya Matsumiya.)

Q. What did you lend her?

A. When she moved to a smaller room near the school she borrowed a zabuton—a cushion.

Q. Did Miss Toguri ever return that cushion?

A. No.

Redirect Examination

By Mr. Tamba:

Q. Did Miss Toguri attend your school during the war?

A. Yes, part of the time, I think. [8]

Japan,

City of Tokyo,

American Consular Service—ss.

I do solemnly swear that I will truly and impartially take down in notes and faithfully transcribe the testimony of Kazuya Matsumiya, a witness now to be examined. So help me, God.

/s/ MILDRED MATZ.

Subscribed and sworn to before me this twenty-fifth day of April, A.D. 1949.

/s/ THOMAS W. AINSWORTH,
Vice Consul of the United
States of America.

[American Consular Service Seal]

Service No. 617a; Tariff No. 38; No fee prescribed.

Japan,
City of Tokyo,
American Consular Service—ss.

May 7, 1949.

CERTIFICATE

I, Thomas W. Ainsworth, Vice Consul of the United States of America in and for Tokyo, Japan, duly commissioned and qualified, acting under the authority of a certain stipulation for taking oral designations abroad, and upon order of the United States District Court, made and entered March 22, 1949, in the Matter of United States of America, Plaintiff, vs. Iva Ikuko Toguri D'Aquino, Defendant, pending in the Southern Division of the United States District Court, for the Northern District of California, and at issue between United States of America vs. Iva Ikuko Toguri D'Aquino, do hereby certify that in pursuance of the aforesaid stipulation and court order and at the request of Theodore Tamba, counsel for the defendant Iva Ikuko Toguri D'Aquino I examined Kazuya Matsumiya, at my office in Room 335, Mitsui Main Bank Building, Tokyo, Japan, on the twenty-fifth day of April, A.D. 1949, and that the said witness being to me personally known and known to me to be the same person named and described in the interrogatories, being by me first sworn to testify the truth, the whole truth, and nothing but the truth in answer to the several interrogatories and cross-interrogatories in the cause in which the aforesaid stipula-

tion, court order, and request for deposition issued, his evidence was taken down and transcribed under my direction by Mildred Matz, a stenographer who was by me first duly sworn truly and impartially to take down in notes and faithfully transcribe the testimony of the said witness Kazuya Matsumiya, and after having been read over and corrected by him, was subscribed by him in my presence; and I further certify that I am not counsel or kin to any of the parties to this cause or in any manner interested in the result thereof.

In witness whereof, I have hereunto set my hand and seal of office at Tokyo, Japan, this seventh day of May, A.D. 1949.

/s/ THOMAS W. AINSWORTH,
Vice Consul of the United
States of America.

[American Consular Service Seal]

Service No. 828; Tariff No. 38; No fee prescribed.

[Endorsed]: Filed May 13, 1949.

In the Southern Division of the United States District Court for the Northern District of California.

No. 31712 R

UNITED STATES OF AMERICA,

Plaintiff.

vs.

IVA IKUKO TOGURI D'AQUINO,

Defendant.

DEPOSITION OF
LARS PEDERSEN TILLITSE

Deposition of Lars Pedersen Tillitse, taken before me, Thomas W. Ainsworth, Vice Consul of the United States of America, in Mitsui Main Bank Building, Room 335, in Tokyo, Japan, under the authority of a certain stipulation for taking oral designations abroad, and upon order of the United States District Court, made and entered March 22, 1949, in the Matter of the United States of America vs. Iva Ikuko Toguri D'Aquino, pending in the Southern Division of the United States District Court, for the Northern District of California, and at issue between the United States of America vs. Iva Ikuko Toguri D'Aquino.

The plaintiff, appearing by Frank J. Hennessy, United States District Attorney; Thomas DeWolfe, Special Assistant to the Attorney General; and Noel Storey, Special Assistant to the Attorney General;

and the defendant, appearing by Wayne N. Collins and Theodore Tamba.

The said interrogatories and answers of the witness thereto were taken stenographically by Irene Cullington and were then transcribed by her under my direction, and the said transcription being thereafter read over correctly to the said witness by me and then signed by said witness in my presence.

It was orally stipulated between Mr. Tamba of the defense, and Mr. Storey of the prosecution, that the administering of the oath to the witness was waived.

It is stipulated that all objections of each of the parties hereto, including the objections to the form of the questions propounded to the witness and to the relevancy, materiality and competency thereof, and the defendant's objections to the use of the deposition, or any part of the deposition, by plaintiff, on the plaintiff's case in chief, shall be reserved to the time of trial in this cause.

The witness stated that he had heretofore furnished a written statement and that his Government had given him permission to testify in accordance with the contents of that written statement.

Direct Examination

By Mr. Tamba:

Q. Mr. Tillitse, you are the Minister from Denmark to Japan, is that right?

A. Yes, I was at that time; now I am the diplomatic representative.

(Deposition of Lars Pedersen Tillitse.)

Q. Mr. Minister, do you know Miss Iva Ikuko Toguri? A. Yes, I know her.

Q. She was employed by the Royal Danish Legation in Tokyo, Mr. Minister?

A. Yes, she was employed as a stenographer-typist from the beginning of January, 1944, until the Legation was closed in May, 1945, following rupture of diplomatic relations between Denmark and Japan.

Q. She was married in the spring of 1945, is that correct? [2*]

A. She was married in the spring of 1945 to a Portuguese subject, Mr. Philip D'Aquino.

Q. Then her name changed?

A. Yes, to Mrs. D'Aquino.

Q. What were her working hours at the Legation, Mr. Minister?

A. She worked daily at the Legation from 9 a.m. to 4 p.m. on week days, except Saturday, when the office closed at 12 Noon.

Q. Mr. Minister, what was her monthly salary?

A. The salary was in yen 150 from January, 1944, to June, 1944, and then yen 160 from July, 1944, to May, 1945. In January she received one month's extra salary, at New Years time, as is the custom in Japan.

Q. Mr. Minister, she worked for your office for approximately 18 months? A. That is correct.

Q. Did you become quite well acquainted with her during that time, Mr. Minister?

* Page numbering appearing at bottom of page of original Reporter's Transcript.

(Deposition of Lars Pedersen Tillitse.)

A. Yes, quite well acquainted.

Q. Was she introduced to your family?

A. Yes; in the summer of 1944 she spent her vacation in our bungalow at Karuizawa.

Q. Mr. Minister, you had certain conversations with Miss Toguri, is that correct?

A. Yes, we talked about many things; also about the war.

Q. What impression did you get of Miss Toguri?

A. I got the impression that she was more like an American than like a Japanese, because she had been educated in America.

Q. Did she have difficulty, if you know, adjusting herself to the Japanese way of life?

A. She often told me about the great difficulty she had in the beginning in adapting herself to the Japanese way of life. [3]

Q. Did she ever tell you that she regretted not being allowed to return to the United States, Mr. Minister?

A. Yes, she did that repeatedly. She wanted to return to the United States in the autumn of 1941, and she was very sorry that she was stranded in Japan during war time.

Q. Did she discuss the war with you during the period of your acquaintanceship?

A. Yes, we often discussed the war, and I remember distinctly that she said that, of course, America would win the war and that it was madness on the part of Japan to try and attack the

(Deposition of Lars Pedersen Tillitse.)

United States, and I always took it for granted that she wanted America to win the war.

Q. Mr. Minister, do you know whether or not she was interrogated by the Japanese police about her work at the Legation?

A. Yes, when she started working for the Danish Legation, she was interrogated by the Japanese police about her work at the Legation, and I have no doubt that she was questioned many times during the period she worked for us.

Q. Did she tell you that, Mr. Minister?

A. I cannot recall it, but it was common knowledge at that time that the police took special interest in all persons who worked for foreigners

Q. You never knew, Mr. Minister, that she worked as a broadcaster at Radio Tokyo?

A. No, I never knew that; she never told me she had such employment.

Q. Did she often tell you news that she had heard?

A. Yes, she would tell me news she had heard from broadcasting people, but I knew she had many friends and I found it quite natural that she was well acquainted with those subjects.

Q. Did you know what her husband's occupation was, Mr. Minister?

A. I thought he was with broadcasting station, but I am not quite [4] sure.

Q. Did you know the nationality of her husband?

A. I think he was half Portuguese and half

(Deposition of Lars Pedersen Tillitse.)

Japanese. By citizenship he was Portuguese and he had a Portuguese passport.

Q. You did not learn of Mrs. D'Aquino's trouble until some time in 1945, is that correct, Mr. Minister?

A. Not until autumn of 1945 when I was back in Denmark. I think it was in "Newsweek" or "Time" that she had been arrested by the occupation authorities in Japan, under suspicion of treason in connection with her radio work.

Q. Was this a surprise to you, Mr. Minister?

A. I was greatly surprised. I was also worried because I knew she was fond of America and because I had never heard of her connection with Radio Tokyo.

Q. That is all.

Cross-Examination

By Mr. Storey:

Q. Mr. Minister, when did you first meet Mrs. D'Aquino?

A. When she came to apply for a position in my Legation.

Q. That was in January, 1944?

A. Either in December, 1943, or January, 1944.

Q. During the period of time that Miss Toguri worked for you, was she absent for any prolonged period of time?

A. No, she was very regular

Q. Were you ever present when she was questioned by the police? A. Never.

(Deposition of Lars Pedersen Tillitse.)

Q. All you know concerning her interrogation by the police was what she told you herself?

A. Yes. It was so customary at that time that anybody who had anything to do with foreigners would be questioned. All of my Japanese servants were questioned, too.

Q. During the entire time that Miss Toguri worked for you she concealed the fact that she was a member and doing broadcasting [5] work at Radio Tokyo?

A. She never told me about it.

Q. That is all.

/s/ L. TILLITSE.

Japan,
City of Tokyo,
American Consular Service—ss.

I do solemnly swear that I will truly and impartially take down in notes and faithfully transcribe the testimony of Lars Pedersen Tillitse, a witness now to be examined. So help me God.

/s/ IRENE CULLINGTON.

Subscribed and sworn to before me this 17th day of May, A.D. 1949.

/s/ THOMAS W. AINSWORTH,
Vice Consul of the
United States of America.

[American Consular Service Seal]

Service No. 904a; Tariff No. 38; No fee prescribed.

Japan,
City of Tokyo,
American Consular Service—ss.

CERTIFICATE

I, Thomas W. Ainsworth, Vice Consul of the United States of America in and for Tokyo, Japan, duly commissioned and qualified, acting under the authority of a certain stipulation for taking oral designations abroad, and upon order of the United States District Court, made and entered March 22, 1949, in the Matter of United States of America, plaintiff, vs. Iva Ikuko Toguri D'Aquino, Defendant, pending in the Southern Division of the United States District Court, for the Northern District of California, and at issue between United States of America vs. Iva Ikuko Toguri D'Aquino, do hereby certify that in pursuance of the aforesaid stipulation and court order and at the request of Theodore Tamba, counsel for the defendant Iva Ikuko Toguri D'Aquino, I examined Lars Pedersen Tillitse, at my office in Room 335, Mitsui Main Bank Building, Tokyo, Japan, on the seventeenth day of May, A.D. 1949, and that the said witness being to me personally known and known to me to be the same person named and described in the interrogatories, being the accredited Diplomatic Representative of the Kingdom of Denmark to the Supreme Commander for the Allied Powers, declared that he had received the permission of his Government to waive his diplomatic immunity to give testimony in this cause; and

that administering of the oath to the witness being waived by oral stipulation between Noel Storey, appearing for the plaintiff, and Theodore Tamba, appearing for the defendant, his evidence was taken down and transcribed under my direction by Irene Cullington, a stenographer who was by me first duly sworn truly and impartially to take down in notes and faithfully transcribe the testimony of the said witness Lars Pedersen Tillitse, and after having been read over by him and he having declared that the transcription was correct without alteration was subscribed by him in my presence; and I further certify that I am not counsel or kin to any of the parties to this cause or in any manner interested in the result thereof.

In witness whereof, I have hereunto set my hand and seal of office at Tokyo, Japan, this twenty-first day of May, A.D. 1949.

/s/ THOMAS W. AINSWORTH,
Vice Consul of the
United States of America.

[American Consular Service Seal]

Service No. 957; Tariff No. 38; No fee prescribed.

[Endorsed]: Filed May 26, 1949.

In the Southern Division of the United States District Court for the Northern District of California.

No. 31712 R

UNITED STATES OF AMERICA,

Plaintiff.

vs.

IVA IKUKO TOGURI D'AQUINO,

Defendant.

DEPOSITION OF K. W. AMANO

Deposition of K. W. Amano, taken before me, Thomas W. Ainsworth, Vice-Consul of the United States of America, in Mitsui Main Bank Building, Room 335, in Tokyo, Japan, under the authority of a certain stipulation for taking oral designations abroad, and upon order of the United States District Court, made and entered March 22, 1949, in the Matter of the United States of America vs. Iva Ikuko Toguri D'Aquino, pending in the Southern Division of the United States District Court, for the Northern District of California, and at issue between the United States of America vs. Iva Ikuko Toguri D'Aquino.

The plaintiff appearing by Frank J. Hennessy, United States District Attorney; Thomas DeWolfe, Special Assistant to the Attorney General; and Noel Storey, Special Assistant to the Attorney General; and the defendant, appearing by Wayne N. Collins and Theodore Tamba.

The said interrogations and answers to the witness

thereto were taken stenographically by Mildred Matz and were then transcribed by her under my direction, and the said transcription being thereafter read over correctly to the said witness by me and then signed by said witness in my presence.

It is Stipulated that all objections of each of the parties hereto, including the objections to the form of the questions propounded to the witness and to the relevancy, materiality and competency thereof, and the defendant's objection to the use of the deposition, or any part of the deposition, by plaintiff, on the plaintiff's case in chief, shall be reserved to the time of trial in this cause.

K. W. AMANO

of Tokyo, Japan, physician and surgeon, of lawful age, being by me duly sworn, deposes and says:

Direct Examination

By Mr. Tamba:

Q. Dr. Amano, you were born in Japan, is that correct? A. Yes.

Q. And your profession is that of physician and surgeon? A. Yes.

Q. Where did you get your medical training?

A. In Japan and in the States.

Q. What schools did you attend in the United States, if any?

A. University of Pennsylvania

Q. How long were you at the University of Pennsylvania?

(Deposition of K. W. Amano.)

A. From 1929 to 1932. I got a Degree of Doctor of Science in Medicine there.

Q. Have you practiced medicine in the United States? A. Yes.

Q. And where, sir?

A. In Seattle from '25, 1925 to 1929, and Los Angeles, '32 to '34.

Q. Are you a member of any medical society in the United States?

A. I was a member of the American Medical Association and the American Academy of Ophthalmology and Otolaryngology. [2*]

Q. In the language of the layman, you were a specialist of eyes, throat, nose and ear ailments?

A. Yes.

Q. And that is what those terms mean, isn't that so, Doctor? A. Yes.

Q. Have you been a member of any state medical societies in the United States?

A. Yes, in the state of Washington.

Q. Are you a member of the California State Medical Society, or were you a member?

A. Let me see, I did practice two years, it's so long since I came back, and after doing research at the University of Pennsylvania, I dropped the connection with the state medical society, I had not joined, I think, but I did have a connection with the College of Medical Evangelists teaching.

Q. Were you connected with any schools?

* Page numbering appearing at bottom of page of original Reporter's Transcript.

(Deposition of K. W. Amano.)

A. At the College of Medical Evangelists as instructor, and University of Southern California Medical School.

Q. Doctor, since you won't be in the states as a witness in this case, I want to ask you some other questions. You are a personal friend, and have been physician to Ambassador Grew, isn't that so?

A. Yes.

Q. You and your wife have treated him and his wife? A. Yes.

Q. And you are the doctor he mentioned in his book?

A. Yes, my wife's name is mentioned as she gave the typhoid injection.

Q. And your wife is also a physician and surgeon? A. Yes.

Q. And she was educated in the United States, although born in Japan? [3]

A. Yes, born in Japan.

Q. And you have traveled extensively and studied in other foreign countries? A. Yes.

Q. What other foreign countries?

A. France, Italy, Germany and Austria, and England, I mean, excuse me.

Q. And in your discussion with me prior to coming here to the Diplomatic Section, you took the position that you were neither pro-Japanese, nor pro-American, but an internationalist.

A. Of course, my education is in both America and as a Japanese race, what should I say, I am

(Deposition of K. W. Amano.)

Japanese in some way and in some way I am American, too, but as a medical scientist I am an internationalist.

Q. Doctor, prior to the war and during the war you treated the foreign nationals in Japan, is that correct?

A. Yes, the last fifteen years from 1934 we had a connection with all foreign diplomats, missionaries and business men.

Q. And how many different classes of foreign nationals did you treat, can you tell us approximately?

A. American, British, Belgian and I think about twenty-five other foreign missions, embassies and legations, and practically all countries.

Q. Do you know a person by the name of Iva Toguri also known as Iva D'Aquino.

A. Yes, I knew her since she came here, to Japan, I understand—

Q. And when did you first treat her medically?

A. Right after she arrived to Japan. That was around, I cannot recall the date but in 1941, I think.

Q. What kind of treatment did you administer then? A. Typhoid injections.

Q. After the war did you treat Mrs. D'Aquino again professionally? [4]

A. You mean during the war. After the war broke out?

Q. Yes. A. Yes.

Q. What was her ailment?

A. She had sinus infection, connected with the

(Deposition of K. W. Amano.)

ear, otitis media, and sinus and beri-beri, connected with malnutrition.

Q. Now, during the course of treatment, did you have occasion to become quite well acquainted with the defendant? A. Yes.

Q. Did you have occasion to discuss the war with her? A. Yes.

Q. Or the progress of the war with her from time to time? A. Yes.

Q. Was that several times, doctor?

A. Yes, I think so. That was around the time of the battle for the Philippines, or a sea battle, which year I cannot recall.

Q. In your meetings with her and discussion of the war did you form an opinion or conclusion as to her allegiance to the United States of America?

A. Yes, that is definite.

Q. What was her allegiance, was she pro-American or pro-Japanese?

A. Her attitude was entirely definitely American.

Q. Can you recall anything in those discussions to indicate that she was definitely American?

A. Because whatever she is, American or Japanese, one is not supposed to tell anything against or about Japanese defeat.

Q. Did she mention that the Japanese would be defeated? A. Yes.

Q. Doctor, what became of the records of your treatment of her and other foreign nationals during the war? What did you do with those records?

(Deposition of K. W. Amano.)

A. Before I evacuated from Tokyo I discarded them because the [5] Kempei-tai might use it against them, my patients, and also for myself.

Q. In other words, those records were all destroyed?
A. Yes.

Q. Did either you or your wife have occasion to treat the defendant and her husband after the war?
A. Yes.

Q. What treatment was administered to them?

A. 1947, after she came out of prison she came for—Mr. D'Aquino came for ear and nose treatment and Mrs. D'Aquino came for pregnancy check by my wife.

Q. That was after she got out of Sugamo Prison?

A. Yes and we treated her until her nine months of pregnancy.

Q. You say you evacuated from Tokyo, where did you go?
A. To Karuizawa.

Q. Was that the place where foreign nationals were interned?
A. Yes.

Q. And you treated foreign nationals there?

A. Yes.

Q. Were you checked by the Kempei-tai there?

A. We were always checked and once I was ordered to come down to Tokyo, but I refused, and they came to Karuizawa to quiz for two days.

Q. In your discussions with Mrs. D'Aquino you knew that she had access to foreign or allied news broadcasts, didn't you, Doctor?
A. Yes.

Q. She told you that?
A. Yes.

(Deposition of K. W. Amano.)

Q. And at one time in the summer of 1944 you left her in charge of your home?

A. Of the clinic, yes, to stay.

Q. How long did she stay there? [6]

A. I forgot, but just one summer season or probably between two or three months. That was in 1943, two or three, I cannot recall that.

Q. Doctor, did you have any knowledge of her having trouble, financially?

A. Yes, that is how she got the job in the broadcasting station, she told me.

Q. She was having financial difficulties?

A. Because her money was cut off, her communication from her father.

Q. Did she ever tell you she hated Japan and wished she had been back in America?

A. I cannot recall whether she mentioned that but she was not so happy here, I am sure, because she had the difficulty of life here.

Cross-Examination

By Mr. Storey:

Q. Doctor, were you ever an American citizen?

A. Me?

Q. Yes.

A. As you know, Japanese not allowed to naturalize—Japanese cannot naturalize, that is why I came back with a return permit. I entered the country before 1924 so I could stay there forever. So as an alien I could stay, but I came to Japan.

(Deposition of K. W. Amano.)

I was invited by the university so I came with a return permit. Still I hold that.

Q. Doctor, when did you leave Tokyo and your clinic?

A. I think March, 1943. The year the war broke out, and in '42 I treated all the Americans, that was June, when the Americans left. In 1944 after Italy surrendered, in February the Ambassador's wife came and stayed until summer. Toguri stayed before that year, I think. No, after that Toguri stayed.

Q. How often did you return to Tokyo after you moved from Tokyo? A. Oh, once a week.

Q. Did you stay long in Tokyo when you came?

A. Just two or three days. I had to see the patients, and later I could come only once a month to see if the house was standing or burned.

Q. Did you see Mrs. D'Aquino there often during the time you returned to Tokyo, after you left?

A. One summer she stayed, and I think that year I treated her, but I don't know how often I saw her but I think not less than twenty times I think during the war. I saw her in Karuizawa. She came for the shots or for the certificates. Yes, for the vitamin shots she came to Karuizawa.

Q. What year was that?

A. We stayed two years. When she was there I cannot remember, but during the war.

Q. How far is Karuizawa from Tokyo?

A. About four hours ride on the train.

(Deposition of K. W. Amano.)

Q. Was it true that people had to have permission during those days to travel?

A. For the foreign nationals only, but Japanese could go without permit.

Q. How often did Miss Toguri come to Karuizawa?

A. I think she dropped in two or three times. She said she was staying at Mrs. Tillitse, the Danish Minister's house. I think she was working there at that time. She was working there at the same time she was working at the broadcasting station. I don't know exactly about her job. Yes, she mentioned that she was working there.

Q. Doctor, give us your best recollection as to the number of times Mrs. D'Aquino discussed the war with you during the war. Was it once or twice, or two or three times?

A. She came up with a Filipino prisoner of war, Mr. Reyes, as a patient. Of course a couple of times only, so we discussed it [8] not only on that occasion but whenever she came we discussed, maybe three or four times.

Q. And you gained the idea that she was pro-American from these discussions you had with her? During those three or four discussions?

A. Yes.

Re-Direct Examination

By Mr. Tamba:

Q. Do you know if Tillitse's wife had a summer home in Karuizawa? A. Yes.

(Deposition of K. W. Amano.)

Q. Doctor, you say she was at Mr. Tillitse's home in Karuizawa when she called on you?

A. Yes.

Q. You mentioned this Italian woman you took into your home. Why did you take her into your home?

A. She had a great difficulty and discomfort in living in the Italian camp.

Q. How long did you keep her there?

A. February to—about six months.

Q. Were you interviewed by the Kempei-tai because you had her in your home?

A. Not for that because she still—a Metropolitan Police Board official arranged with the regular policeman for the benefit of her because she was a nervous wreck and she needed treatment and we took her in our place but finally the head of the Metropolitan Police Board came and took her back to the camp against her will.

Re-Cross-Examination

By Mr. Storey:

Q. You have mentioned an internment camp at Karuizawa—

A. No, I mean internment camp at Denenchofu for the Italians but there was no internment camp in Karuizawa. Karuizawa was an open place for the German refugees, from the East Indies, and [9] half of the Soviet Embassy people evacuated from here and was allowed to stay at Hotel Mampei, not internment, and they went back to, I think they

(Deposition of K. W. Amano.)

went to Hakone when the war broke out, but in the beginning they moved to Karuizawa. We delivered a few Soviet babies.

Q. Was there an internment camp where these people were gathered and put into some camp and were guarded?

A. Yes. Italians, because since Mussolini's government dropped these people of the Embassy was taken, except those four Bodolio—some commercial attache was investigated afterwards but all taken first to the camp.

/s/ K. W. AMANO.

Japan,
City of Tokyo,
American Consular Service—ss.

I do solemnly swear that I will truly and impartially take down in notes and faithfully transcribe the testimony of K. W. Amano, a witness now to be examined. So help me God.

/s/ MILDRED MATZ.

Subscribed and sworn to before me this 2nd day of May, A.D. 1949.

/s/ THOMAS W. AINSWORTH,
Vice Consul of the
United States of America.

[American Consular Service Seal.]

Service No. 733a; Tariff No. 38; No fee prescribed.

Japan,
City of Tokyo,
American Consular Service—ss.

CERTIFICATE

I, Thomas W. Ainsworth, Vice Consul of the United States of America in and for Tokyo, Japan, duly commissioned and qualified, acting under the authority of a certain stipulation for taking oral designations abroad, and upon order of the United States District Court, made and entered March 22, 1949, in the Matter of United States of America, Plaintiff, vs. Iva Ikuko Toguri D'Aquino, Defendant, pending in the Southern Division of the United States District Court, for the Northern District of California, and at issue between United States of America vs. Iva Ikuko Toguri D'Aquino, do hereby certify that in pursuance of the aforesaid stipulation and court order and at the request of Theodore Tamba, counsel for the defendant Iva Ikuko Toguri D'Aquino I examined K. W. Amano, at my office in Room 335, Mitsui Main Bank Building, Tokyo, Japan, on the second day of May, A.D. 1949, and that the said witness being to me personally known and known to me to be the same person named and described in the interrogatories, being by me first sworn to testify the truth, the whole truth, and nothing but the truth in answer to the several interrogatories and cross-interrogatories in the cause in which the aforesaid stipulation, court order, and

request for deposition issued, his evidence was taken down and transcribed under my direction by Mildred Matz, a stenographer who was by me first duly sworn truly and impartially to take down in notes and faithfully transcribe the testimony of the said witness K. W. Amano, and after having been read over and corrected by him, was subscribed by him in my presence; and I further certify that I am not counsel or kin to any of the parties to this cause or in any manner interested in the result thereof.

In witness whereof, I have hereunto set my hand and seal of office at Tokyo, Japan, this 19th day of May, A.D. 1949.

/s/ THOMAS W. AINSWORTH,
Vice Consul of the
United States of America.

[American Consular Service Seal.]

Service No. 933; Tariff No. 38; No fee prescribed.

In the Southern Division of the United States
District Court for the Northern District of
California.

No. 31712 R

UNITED STATES OF AMERICA,

Plaintiff,

vs.

IVA IKUKO TOGURI D'AQUINO,

Defendant.

DEPOSITION OF UNAMI KIDO

Deposition of Unami Kido, taken before me, Thomas W. Ainsworth, Vice Consul of the United States of America, in Mitsui Main Bank Building, Room 335, in Tokyo, Japan, under the authority of a certain stipulation for taking oral designations abroad, and upon order of the United States District Court, made and entered March 22, 1949, in the Matter of the United States of America vs. Iva Ikuko Toguri D'Aquino, pending in the Southern Division of the United States District Court, for the Northern District of California, and at issue between the United States of America vs. Iva Ikuko Toguri D'Aquino.

The plaintiff appearing by Frank J. Hennessy, United States District Attorney; Thomas DeWolfe, Special Assistant to the Attorney General, and Noel Storey, Special Assistant to the Attorney General, and the defendant, appearing by Wayne N. Collins and Theodore Tamba.

It appearing that the witness Unami Kido could not intelligently testify in the English language and did well understand the Japanese language, one Nobuo Nishimori, who also well understands said language, was employed as interpreter, and was sworn in as follows:

“You do solemnly swear that you know the English and Japanese languages and that you will truly and impartially interpret the oath to be administered and interrogatories to be asked of Unami Kido, a witness now to be examined, out of the English language into the Japanese language, and that you will truly and impartially interpret the answers of the said Unami Kido thereto out of the Japanese language into the English language, so help you God.”

The said interrogatories and answers of the witness thereto were taken stenographically by Irene Cullington and were then transcribed by her under my direction, and the said transcription being thereafter read over correctly to the said witness by me and then signed by said witness in my presence.

It is stipulated that all objections of each of the parties hereto, including the objections to the form of the questions propounded to the witness and to the relevancy, materiality and competency thereof, and the defendant's objections to the use of the deposition, or any part of the deposition, by plaintiff, on the plaintiff's case in chief, shall be reserved to the time of trial in this cause.

UNAMI KIDO

of Tokyo, Japan, of lawful age, being by me duly sworn, deposes and says:

Direct Examination

By Mr. Tamba:

Q. Mrs. Kido, what is your occupation?

A. Housewife.

Q. Mrs. Kido, what is your husband's name?

A. Mitsuyoshi Kido.

Q. Where was he during the war? [2*]

A. He was in Manchuria.

Q. Do you know a man by the name of Katsuo Okada? A. Yes, I do.

Q. How long have you known him?

A. About seven, eight or probably ten years.

Q. Is he a friend of your husband?

A. They hail from the same place.

Q. Do you know a woman by the name of Iva Toguri D'Aquino? A. Yes.

Q. When did you first meet her?

A. I first met her on October 25, 1944, and she has been living at my place since the 27th of that month.

Q. Was that the first time you met her?

A. Yes.

Q. Did she come to see you about getting a room at your house?

A. She came back from America with a niece of a "go-between" whom I know. My husband

* Page numbering appearing at bottom of page of original Reporter's Transcript.

(Deposition of Unami Kido.)

was away in Manchuria and my children were sent to the country, so this "go between" asked me to rent a room for them.

Q. This man was the "go between" for you and your husband? A. Yes.

Q. Is it the custom among Japanese to ask the advice of a "go between" with respect to anything they do?

A. Yes, in my case I consulted the "go between" because my husband had requested it.

Q. Did your "go between" tell you to take Iva in as a roomer?

A. The "go between" told me I ought to be lonesome and that I had a large house, so how about taking her in.

Q. Did you discuss the question of Mrs. D'Aquino moving in with Mr. Okada?

A. Regarding taking these people in my house, I told Mr. Okada that we were reprimanded for even sympathizing with prisoners [3] of war, and Mr. Okada, being a kempei, I asked him whether it would be feasible to accommodate these persons.

Q. What did Mr. Okada tell you?

A. Mr. Okada said that she, being a woman, wouldn't do anything particularly bad, so I would be able to keep her.

Q. When you refer to "she being a woman" you mean Iva? A. Yes.

Q. Did Okado tell you he would do anything to protect you?

A. What do you mean by "protect you"?

(Deposition of Unami Kido.)

Q. Did he tell you that he would come around your place often so no suspicion would be had?

Mr. DeWolfe: Objected to as hearsay and incompetent, Your Honor.

The Court: Objection sustained.

(A. He said that she is an American citizen, in other words a Nisei, so I will come around here once in a while.)

Q. Did Mr. Okada come around your home once in a while when Iva was living there?

A. He came around about once a week, and depending upon his duty, he came around once in two weeks.

Q. Do you remember, Mrs. Kido, when the Kempei came to your home and Okada was there?

A. Yes.

Q. What did Okada say to the Kempei-tai?

Mr. DeWolfe: Object to that as hearsay, incompetent.

The Court: Objection sustained.

(A. I heard it later from Mr. Okada that he said to the Kempei-tai, "She is a relative of mine, so leave that to me.")

Q. Did you see Okada talk to the Kempei-tai at that time? A. No, I did not see.

Q. Do you remember the Kempei-tai coming around and making inquiry about your husband?

A. Yes, they came around but I was absent, so they inquired of my niece.

Q. Your niece told you about it? A. Yes.

(Deposition of Unami Kido.)

Q. Did you talk to Iva D'Aquino about that afterwards? [4]

A. I didn't know this Kempei came to inquire about Iva. I thought he came to inquire about my husband.

Q. Did Iva tell you that the Kempei-tai were not inquiring about your husband but were inquiring about her?

A. Yes. I told Iva that I was worried about something my husband had done in Manchuria, and at that time she told me that the Kempei-tai were inquiring about her, Iva.

Q. Did the police come to your home and ask about Iva?

A. They just asked whether or not Iva was home?

Q. How often did the police come there?

A. About two or three times a month.

Q. Did you ever see Iva talk with Mr. Okada?

A. Yes.

Q. And that was in your home? A. Yes.

Q. Philip D'Aquino came to live in your home later, is that right? A. Yes.

Q. And he and Iva were married?

A. Yes; they lived together after they were married.

Q. Did you have any trouble with your relatives next door because you gave Iva a room?

Mr. DeWolfe: Object to that as incompetent, irrelevant and immaterial.

The Court: Objection sustained.

(Deposition of Unami Kido.)

(A. Yes.)

Q. What did your relatives say to you about Iva?

Mr. DeWolfe: Objected to as hearsay and incompetent.

The Court: Objection sustained.

(A. You mean because she stayed in my room?)

Q. Did they say anything about Iva being pro-American?

Mr. DeWolfe: Same objection, Judge.

The Court: Same ruling.

(A. Yes.)

Q. Did they tell you you should not have her there?

Mr. DeWolfe: Object to that as immaterial and hearsay.

The Court: Objection sustained.

(A. They didn't think it advisable to have such people in my home.)

Q. Your relatives don't talk to you, even today, is that correct, Mrs. Kido, over Iva?

Mr. DeWolfe: Object to that as incompetent, irrelevant and immaterial, hearsay.

The Court: Objection sustained.

(A. That's correct.) [5]

Q. Why did you take Iva into your home?

A. As I said before, my "go between" had made the request.

Q. Did you tell me, Mrs. Kido, before coming here about an hour ago, that the reason you wanted Iva there was because you wanted to help

(Deposition of Unami Kido.)

a foreigner in a strange land, because your husband was away from home?

Mr. DeWolfe: Object to that as incompetent, hearsay.

The Court: Objection sustained.

(A. Yes, my husband was on foreign soil and I understood her position.)

Mr. DeWolfe: Object to that as incompetent, hearsay.

The Court: Objection sustained.

Q. Did you ever hear the neighbors call Iva a spy?

A. When there were air raids there was confusion and for that reason I heard that people said such things, but I did not hear it directly.

Q. Did you hear anybody call Iva a spy because she had a Christmas tree at one time?

Mr. DeWolfe: Object to that as calling for a conclusion, hearsay, incompetent, sir.

The Court: The objection will be sustained.

(A. Yes.)

Q. Do you know what kind of work Iva was doing during the time of the war?

A. I knew that she was going to the broadcast station, but I did not know what kind of work she was doing.

Q. Do you remember Iva remaining away from the broadcasting station?

A. Yes, I remember.

Q. Do you remember Iva receiving a card from the broadcasting station?

(Deposition of Unami Kido.)

A. Yes, I read it to her.

Q. What did the card say, if you remember?

A. It just said to come to work.

Q. Did she go to work?

A. I can't recall clearly, but I think she did not go out immediately, but I think she went out two or three days later.

Q. Do you remember a man coming to your home from the [6] broadcasting station?

A. She did not go after receiving a letter, so a person came.

Q. Did he order her to return to work?

A. I do not know because he met Iva.

Q. Did you know the man's name?

A. I remember it was a man, but I don't know the name.

Q. Do you remember Iva remaining away from the broadcasting station? A. Yes.

Q. For how long a period did she remain away from the broadcasting station?

A. She was absent most of the time from April.

Q. What year? A. 1945.

Q. Did Iva ever discuss the war with you?

A. It was not exactly a discussion, but she said there was no chance of Japan winning the war.

Q. Did you buy things on the black market during the war? A. Yes, I did.

Q. For yourself and Iva?

A. Yes; at first I bought for myself and for Iva. Later Iva was taking it out. She once told

(Deposition of Unami Kido.)

me that it was secret and not to reveal to anyone because I would get in trouble as well as she. And I asked her what was the matter and she said she was taking it to sick prisoners of war.

Q. When she left your home on these occasions, did she leave with a bag?

A. Yes, she always carried a bag.

Q. And was that full?

A. There might have been some cosmetic kit in it, also.

Q. Do you know if Iva ever bought war bonds?

A. No, she did not buy them. [7]

Q. Did she ever collect metal ware, old clothes or cotton to help the war effort?

A. She never did.

Cross-Examination

By Mr. Storey:

Q. Mrs. Kido, were you ever present when Iva was questioned by the Kempei?

A. At home you mean?

Q. At any place? A. No.

Q. Mrs. Kido, were you ever present when Iva was questioned by the police?

A. The police authority came two or three times a month, but when they did talk, I don't know what they talked about.

Q. Mrs. Kido, were you ever present in your home when the police talked to or questioned Miss D'Aquino?

(Deposition of Unami Kido.)

A. I was in the house, but I do not know what they talked about.

Q. Did the Kempei ever question you about Mrs. D'Aquino while she lived at your house?

A. The Kempei-tai did not talk to me directly but they did talk to Mr. Okada and Okada told them that "this is the home of one of my relatives, so let me handle this matter." Then after that the Kempei did not come to my home.

Q. Did Mrs. D'Aquino know that Mr. Okada was a member of the Kempei-tai?

A. I told her.

Q. Was Mrs. D'Aquino friendly with Mr. Okada?

A. He was my relative and we all talked to him.

Q. Were Mrs. D'Aquino and Mr. Okada friends?

A. I introduced them and I do not know whether you would call that friends or not.

Q. Did Mrs. D'Aquino have any conversations with Mr. Okada?

A. They never talked when they were [8] alone.

Q. Did Mr. Okada know that you and Iva were buying food on the black market?

A. Everybody was buying on the black market and we talked of those things openly.

Q. So, Mr. Okada knew that you were buying food for Iva on the black market? A. Yes.

Q. Was this food that you bought on the black market expensive?

(Deposition of Unami Kido.)

A. Not necessarily too high, but it wasn't the official price.

Q. Did the food you bought on the black market cost more than the food you bought on your food ration coupons? A. Yes.

Q. Did Mrs. D'Aquino furnish you with any of this money to buy food on the black market?

A. Yes.

Q. Did you ever see Mrs. D'Aquino deliver any food to prisoners of war?

A. No, I did not see her deliver food to the prisoners of war, but I have seen her carrying foods.

Q. Mrs. Kido, you have testified that Mrs. D'Aquino received a card from the radio station directing her to return to work?

A. Yes, when she was away.

Q. Was this card requesting Miss Toguri to return to work or directing her to return to work?

A. You will return to work (Shutto Seyo).

Q. Who signed this card, Mrs. Kido?

A. It was written by the American Section.

Q. Did Mrs. D'Aquino report to work immediately after receiving this order?

A. No, she did not go immediately.

Q. Who was the man who came to your house after receiving this card? [9]

A. I forgot the name, but a man did come.

Q. Who did he talk to?

A. First he asked me if Iva was home. Then he talked to her.

(Deposition of Unami Kido.)

Q. Did he talk to Mrs. D'Aquino?

A. I called Iva downstairs but I don't know what they talked about.

Q. Was this man from the radio station?

A. Yes, I think he was from the American Section.

Q. Did the man tell you he was from the American Section of the radio station?

A. He said he was from the broadcasting station.

Q. Did he tell you what he wanted to talk to you about?

A. He just asked me whether or not Iva was in.

Q. Were you present when the man from the radio station talked to Mr. and Mrs. D'Aquino?

A. I was present when he met Iva, but do not know what they talked about. I do not know whether Philip was there or not.

Q. That is all.

Re-Direct Examination

By Mr. Tamba:

Q. Was this man a fat man, if you remember, Mrs. Kido?

A. He wasn't very tall; I would say rather that he was a small fellow.

Q. Was he a thin man?

A. Yes, he was a thin person; he wasn't fat.

Q. Did he have curly hair or straight hair, if you remember?

(Deposition of Unami Kido.)

A. I did not observe that close; I just remember that he was a man and small in stature.

Q. Mrs. Kido, was Iva at home when the police used to call two or three times a month?

A. She met them about twice and the rest of the time I talked to the police.

Q. In other words, the rest of the time Iva wasn't home? A. Yes.

Q. That is all. [10]

Japan,
City of Tokyo,
American Consular Service—ss.

I do solemnly swear that I will truly and impartially take down in notes and faithfully transcribe the testimony of Unami Kido, a witness now to be examined. So help me God.

/s/ IRENE CULLINGTON.

Subscribed and sworn to before me this 13th day of May, A.D. 1949.

/s/ THOMAS W. AINSWORTH,
Vice Consul of the
United States of America.

[American Consular Service Seal.]

Service No. 874a; Tariff No. 38; No fee prescribed.

Japan,
City of Tokyo,
American Consular Service—ss.

CERTIFICATE

I, Thomas W. Ainsworth, Vice Consul of the United States of America in and for Tokyo, Japan, duly commissioned and qualified, acting under the authority of a certain stipulation for taking oral designations abroad, and upon order of the United States District Court, made and entered March 22, 1949, in the Matter of United States of America, Plaintiff, vs. Iva Ikuko Toguri D'Aquino, Defendant, pending in the Southern Division of the United States District Court, for the Northern District of California, and at issue between United States of America vs. Iva Ikuko Toguri D'Aquino, do hereby certify that in pursuance of the aforesaid stipulation and court order and at the request of Theodore Tamba, counsel for the defendant Iva Ikuko Toguri D'Aquino, I examined Unami Kido, at my office in Room 335, Mitsui Main Bank Building, Tokyo, Japan, on the thirteenth day of May, A.D. 1949, using as interpreter Nobuo Nishimori, who was by me first duly sworn truly and impartially to interpret the oath to be administered and interrogatories to be asked of the witness out of the English into the Japanese language, and truly and impartially to interpret the answers of the witness thereto out of the Japanese language into the English language; and that the said witness being to me personally

known and known to me to be the same person named and described in the interrogatories, being by me first sworn to testify the truth, the whole truth, and nothing but the truth in answer to the several interrogatories and cross-interrogatories in the cause in which the aforesaid stipulation, court order, and request for deposition issued, her evidence was taken down and transcribed under my direction by Irene Cullington, a stenographer who was by me first duly sworn truly and impartially to take down in notes and faithfully transcribe the testimony of the said witness Unami Kido, and after having been read over and interpreted to, and corrected by her, was subscribed by her in the Japanese language and a Japanese name-stamp, which constitutes a legal signature under Japanese law, affixed in my presence; and I further certify that I am not counsel or kin to any of the parties to this cause or in any manner interested in the result thereof.

In witness whereof, I have hereunto set my hand and seal of office at Tokyo, Japan, this 19th day of May, A.D. 1949.

/s/ THOMAS W. AINSWORTH,
Vice Consul of the
United States of America.

[American Consular Service Seal.]

Service No. 939; Tariff No. 38; No fee prescribed.

[Endorsed]: Filed May 23, 1949.

In the Southern Division of the United States
District Court for the Northern District of
California

No. 31712 R

UNITED STATES OF AMERICA,

Plaintiff,

vs.

IVA IKUKO TOGURI D'AQUINO,

Defendant.

DEPOSITION OF KEN MURAYAMA

Deposition of Ken Murayama, taken before me, Thomas W. Ainsworth, Vice Consul of the United States of America, in Mitsui Main Bank Building, Room 335, in Tokyo, Japan, under the authority of a certain stipulation for taking oral designations abroad, and upon order of the United States District Court, made and entered March 22, 1949, in the Matter of United States of America vs. Iva Ikuko Toguri D'Aquino, pending in the Southern Division of the United States District Court, for the Northern District of California, and at issue between the United States of America vs. Iva Ikuko Toguri D'Aquino.

The plaintiff appearing by Frank J. Hennessy, United States District Attorney; Thomas DeWolfe, Special Assistant to the Attorney General, and Noel Storey, Special Assistant to the Attorney General, and the defendant, appearing by Wayne N. Collins and Theodore Tamba.

The said interrogations and answers of the wit-

ness thereto were taken stenographically by Irene Cullington and were then transcribed by her under my direction, and the said transcription being thereafter read over correctly to said witness by me and then signed by said witness in my presence.

It is Stipulated that all objections of each of the parties hereto, including the objections to the form of the questions propounded to the witness and to the relevancy, materiality and competency thereof, and the defendant's objections to the use of the deposition, or any part of the deposition, by plaintiff, on the plaintiff's case in chief, shall be reserved to the time of trial in this cause.

KEN MURAYAMA

of Tokyo, Japan, a translator, of lawful age, being by me first duly sworn, deposes and says:

Direct Examination

By Mr. Tamba:

Q. State your name, please.

A. Ken Murayama.

Q. Where do you reside?

A. In the city of Tokyo.

Q. What is your business or occupation?

A. I am doing translating work for various motion picture companies.

Q. Are you a citizen and national of Japan?

A. I am.

Q. When did you become a citizen and national of Japan? A. In 1939.

Q. Where were you born?

A. New York City.

(Deposition of Ken Murayama.)

Q. When? A. December 26, 1911.

Q. Did you receive your education in the United States? A. Yes.

Q. What school?

A. High school in Washington, D. C., and graduated from [2*] George Washington University.

Q. When did you come to Japan?

A. In July, 1933.

Q. Have you resided in Japan ever since?

A. Yes, except for trips to China and the Philippines.

Q. Have you ever returned to the United States? A. No.

Q. Do you know a person by the name of Iva D'Aquino, also known as Iva Toguri?

A. I have met and seen Iva Toguri while she was employed in the Domei News Agency.

Q. When was that?

A. I can't recall for sure. It might have been during the first year of the war.

Q. Have you ever seen her since that date?

A. No.

Q. Do you know anything of her activities around radio stations during the years of the war?

A. No, only such things as I have read since.

Q. Do you know anything about a Zero Hour program? A. No, I don't.

Q. Do you know a person by the name of Myrtle Liston? A. Yes.

Q. Where did you meet Miss Liston?

(Deposition of Ken Murayama.)

A. In Manila.

Q. Under what circumstances?

A. She was broadcasting over the Manila radio station to the Southwest Pacific.

Q. Did you or anyone else have any part in the preparation of the script used by Myrtle Liston?

A. Yes, I wrote the scripts Miss Liston broadcast. Mr. Uno also wrote some of the scripts. [3]

Q. What was the nature or tenor of the scripts you wrote for Miss Liston, if you recall?

A. Those scripts were designed to create a sense of homesickness among troops fighting in the Southwest Pacific. Their tone was one of trying to make the soldiers recall certain good times they might have had when they were back in the States. Usually the scripts were along those lines.

Q. Do you recall any script being prepared by you which referred to a short story of a girl at home and a boy friend who was ineligible for the Army?

Mr. DeWolfe: Objected to as incompetent, not the best evidence.

The Court: Submitted?

Mr. Collins: Yes.

The Court: The objection will have to be sustained.

(A. There were several scripts. I can't recall the exact contents, but the general tenor was such as you have mentioned. We had stories, short scripts shall we say, of girls having dates with men at home, while possibly their sweethearts or hus-

(Deposition of Ken Murayama.)

bands might be fighting in the Southwest Pacific area.)

Q. Do you recall anything about malaria, jungle rot, and high cost of living, or scripts of that tenor?

Mr. DeWolfe: Object to that as immaterial and incompetent; hearsay; not the best evidence; irrelevant.

The Court: Objection sustained.

(A. I can't give you any exact quotation regarding malaria or jungle rot, but I am sure some of the scripts must have included diseases which were prevalent in the tropical areas.)

Q. What kind of music did you play on the program?

A. We relied heavily on waltzes—music which tended to be dreamy; usually old pieces.

Q. Were those old pieces introduced with any particular phrase before being played?

A. Yes—Do you remember such and such a piece.

Q. How was that program introduced—with any particular piece of music?

A. I believe the program came on with the playing of "Auld Lang Syne."

Q. How did it end, if you remember?

A. We had some other signature number. I think the word [4] "Aloha" was in it.

Q. Was that program broadcast short wave or locally?

A. It was not broadcast locally but only short wave.

(Deposition of Ken Murayama.)

Q. Can you tell us something about the type of voice Miss Liston had?

A. She had a very good voice from the standpoint of use over the microphone. It was quite low pitched, husky. The sort of voice that would carry well and was in keeping with the general tenor of the program itself.

Q. If she were a singer, in what category would you class her as a singer?

A. A torch singer.

Q. What kind of English did she use?

A. Her English was very good. I don't think she was very well educated, but her pronunciation was very good for a Filipino.

Q. Did you ever see her come to the station intoxicated before a broadcast?

A. Yes, several times.

Q. What did she do with the scripts on those occasions?

A. She got through them all right. She did a very good job on them.

Q. I think that is all.

Q. Do you remember what hour of the day that program came on?

A. I can't say for certain. It might have been 5 or 5:30.

Q. Did you ever announce the station when you broadcast the program?

A. I think we announced it as PIRM.

Q. Do you know if the Japanese Government

(Deposition of Ken Murayama.)

had other broadcasting stations in the Pacific, of your own knowledge.

A. No, I don't know of my own knowledge.

Q. You don't know of one in Shanghai?

A. Yes.

Q. Were you in China during the war? [5]

A. Yes.

Q. Was a woman on that station?

A. I was in Shanghai in the very early days of the war, in the early part of 1942, and at that time I recall an Australian girl who was broadcasting over station XMHA.

Q. Do you know her name?

A. McDonald was her last name. I think her first name was Betty.

Cross-Examination

By Mr. Storey:

Q. How long did you know Miss Tōguri?

A. Well, I had only met her several times in the Domei office. I can't say I knew her very well—just to say "hello" to.

Q. Did you know Miss Toguri while she was working at Radio Tokyo?

A. No, not at all. May I add something there?

Q. No, I think that answered the question.

Q. Then you know nothing at all as to the work Miss Toguri was doing at Radio Tokyo?

A. No, I do not. I did not know until the end of the war.

Q. Approximately when did Miss Liston start broadcasting this program from Manila?

(Deposition of Ken Murayama.)

A. As I recall, it was either September of October, 1944. I believe that is right.

Q. How long did Miss Liston continue to broadcast?

A. I believe until the end of January, 1945, or the first days of February. I am not sure.

Q. Did Miss Liston ever refer to herself in these broadcasts by the name of "Ann"?

A. I do not recall any name like that.

Q. Did Miss Liston ever refer to herself as "Orphan Ann" in that program? A. No.

Q. That is all.

/s/ KEN MURAYAMA. [6]

Japan,
City of Tokyo,
American Consular Service—ss.

I do solemnly swear that I will truly and impartially take down in notes and faithfully transcribe the testimony of Ken Murayama, a witness now to be examined. So help me God.

/s/ IRENE CULLINGTON.

Subscribed and sworn to before me this nineteenth day of April, A.D. 1949.

/s/ THOMAS W. AINSWORTH,
Vice Consul of the
United States of America.

[American Consular Service Seal.]

Service No. 589a; Tariff No. 38; No fee prescribed.

Japan,
City of Tokyo,
American Consular Service—ss.

CERTIFICATE

I, Thomas W. Ainsworth, Vice Consul of the United States of America in and for Tokyo, Japan, duly commissioned and qualified, acting under the authority of a certain stipulation for taking oral designations abroad, and upon order of the United States District Court, made and entered March 22, 1949, in the Matter of United States of America, Plaintiff, vs. Iva Ikuko Toguri D'Aquino, Defendant, pending in the Southern Division of the United States District Court, for the Northern District of California, and at issue between United States of America vs. Iva Ikuko Toguri D'Aquino, do hereby certify that in pursuance of the aforesaid stipulation and court order and at the request of Theodore Tamba, Counsel for the defendant Iva Ikuko Toguri D'Aquino, I examined Ken Murayama, at my office in Room 335, Mitsui Main Bank Building, Tokyo, Japan, on the nineteenth day of April, A.D. 1949, and that the said witness being to me personally known and known to me to be the same person named and described in the interrogatories, being by me first sworn to testify the truth, the whole truth, and nothing but the truth in answer to the several interrogatories and cross-interrogatories in the cause in which the aforesaid stipulation, court order, and request for deposition issued, his evi-

dence was taken down and transcribed under my direction by Irene Cullington, a stenographer who was by me first duly sworn truly and impartially to take down in notes and faithfully transcribe the testimony of the said witness Ken Murayama, and after having been read over and corrected by him was subscribed by him in my presence; and I further certify that I am not counsel or kin to any of the parties to this cause or in any manner interested in the result thereof.

In witness whereof, I have hereunto set my hand and seal of office at Tokyo, Japan, this fifth day of May, A.D. 1949.

/s/ THOMAS W. AINSWORTH,
Vice Consul of the
United States of America.

[American Consular Service Seal.]

Service No. 804; Tariff No. 38; No fee prescribed.

[Endorsed]: Filed May 13, 1949.

[Title of District Court and Cause.]

DESIGNATION OF CONTENTS OF
RECORD ON APPEAL

The defendant (appellant) hereby designates that the whole of the record, proceedings and evidence be contained in the record on appeal herein, and more particularly as follows:

1948

Oct. 8—Indictment.

Oct. 11—Minute order entry on arraignment and oral motion for bail and continuing cause to Oct. 14 at 1:00 p.m. for hearing on motion that defendant be admitted to bail.

Oct. 13—Notice of Motion and Motion to be admitted to bail.

Oct. 14—Minute order that defendant's motion for bail be denied and providing that marshal provide suitable place of confinement where defendant will have full opportunity to interview witnesses and consult with counsel.

Oct. 27—Demand for Bill of Particulars.

Nov. 3—Demand for Discovery and Inspection.

Nov. 3—Demand for Additional Bill of Particulars.

Nov. 15—Notice and Motion to Strike.

Nov. 15—Notice and Motion to Dismiss Indictment.

Nov. 15—Notice and Motion for Discovery and Inspection.

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Nov. 15—Notice and Motion to Dismiss Indictment on Defenses and Objections Capable of Determination Without Trial of General Issue.

Nov. 15—Affidavit in Support of Motions to Dismiss, etc.

Nov. 15—Notice and Motion for Bill of Particulars.

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Jan. 3—Minute order that Motion for Bill of Particulars, Motion to Dismiss Indictment be denied, and that Motion for Discovery and Inspection be granted as to request number 7 but denied as to remaining requests, and that Motion to Strike Indictment be denied.

Jan. 3—Minute order that defendant pleads "Not Guilty" and setting cause for trial on May 16, 1949.

Mar. 1—Motion for Order Authorizing and Directing Issuance of Subpoenas requiring attendance of witnesses in a foreign country at the trial at expense of the Government and for service thereof.

Mar. 14—Minute order that motion to take certain depositions be granted and that remaining motions be denied.

Mar. 15—Order Denying Seven (7) Motions and Granting Defendant's Motion for Taking Depositions Abroad.

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- Mar. 22—Stipulation to Taking Oral Depositions Abroad.
- Apr. 5—Motion for Lists of Witnesses and Veniremen.
- Apr. 5—Motion for Order Authorizing and Directing Issuance and Service of Subpoenas Requiring Attendance of Witnesses at Trial Herein at Government Expense.
- Apr. 21—Notice and Motion for Postponement of Time of Trial.
- Apr. 25—Minute order authorizing issuance and service of subpoenas and motion for list of witnesses and veniremen be continued to May 2, 1949, and ordering case continued from May 16, 1949, to July 5, 1949 for trial.
- May 4—Motion for Order Authorizing and Directing Issuance and Service of Subpoenas requiring attendance of witnesses at trial at expense of the Government, and Affidavit in Support thereof.
- May 18—Order Granting Defendant's Motion for Order Authorizing and Directing Issuance and Service of Subpoenas of Defendant's Witnesses at Government Expense.
- May 18—Order Denying Defendant's Motion for List of Witnesses and Veniremen.
- May 24—Motion for Order Authorizing and Directing Issuance and Service of Subpoenas at Government Expense.

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June 1—Order Granting Defendant's Motion to Subpoena Albert Rickert and Edwin Kalbfleish, Jr., at Government Expense.

June 16—Notice and Motion for list of witnesses and veniremen.

June 16—Notice and Motion for Supplemental Order authorizing additional subsistence expenses to be paid defendant's counsel for attending examination of witnesses abroad.

June 16—Notice and Motion for Production of Documentary Evidence.

June 20—Order granting motion for Supplemental Order authorizing additional subsistence expenses to be paid by the government to defendant's counsel for attending examination of witnesses abroad.

June 20—Minute order granting plaintiff's motion to quash subpoena duces tecum served on Mr. Hennessy.

June 22—Order requiring plaintiff to supply defendant with lists of witnesses and veniremen.

June 22—Minute order quashing subpoenas duces tecum issued to Mr. DeWolfe, and subpoena No. 148.

June 22—Minute order denying defendant's motion to produce.

June 28—Copy of list of witnesses and jurors.

June 29—Amended witness list.

July 5—Appearance of attorneys.

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Aug. 12—Minute entry ordering oral motion for judgment of acquittal continued to August 13, 1949.

Aug. 13—Minute order denying defendant's motion for judgment of acquittal.

Aug. 13—Motion for order for production, examination and inspection of records and script.

Sept. 19—Minute entries of defendant's motions to strike certain testimony, to dismiss indictment and for judgment of acquittal, and minute orders denying the same.

Sept. 26—Minute entry reading "Trial resumed. Jury instructed and retired to deliberate upon its verdict. Ordered alternate juror Aileen McNamara excused from further service. It is ordered that the Marshal furnish meals and lodging for the jurors and 2 deputy marshals. At 11:20 p.m. Jury retired for the night. Ordered continued to September 27, 1949, for further trial."

Sept. 27—Minute entry reading "Trial resumed. Jury requested and received certain portions of transcript and certain exhibits and retired to deliberate its verdict. At 10:15 p.m. the jury retired for the night. Ordered continued to September 28, 1949 for further trial."

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Sept. 29—Minute entry reading “Trial resumed. Jury deliberated further upon its verdict. After requesting and receiving certain Volumes of testimony and further instructions and after due deliberation the Jury returned a Verdict of “Guilty.” The jury was thereupon polled. Ordered Jury be discharged from further consideration hereof and be excused, On Motion of Mr. Collins it is ordered that this cause be continued to October 6th for judgment.”

Sept. 29—Special Findings of the Jury finding defendant not guilty on Overt Acts 1, 2, 3, 4, 5, 7 and 8 but guilty on Overt Act No. 6.

Sept. 29—Jury Verdict.

Oct. 3—Motion in Arrest of Judgment.

Oct. 3—Motion for Acquittal or New Trial.

Oct. 3—Motion for New Trial.

Oct. 5—Supplemental Ground in Support of Motion for Acquittal or New Trial.

Oct. 6—Minute order denying defendant’s motions for new trial, acquittal or new trial and in arrest of judgment.

Oct. 6—Minute entry showing defendant was called for judgment.

Oct. 6—Minute entry showing defendant was ordered sentenced and committed to the custody of the Attorney General for imprisonment for a period of 10 years and fined \$10,000.

Formal judgment and commitment.

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- Oct. 3—Minute entry showing that there was filed defendant's instructions covered by the court in other instructions and that defendant excepts thereto on grounds they have not been covered.
- Oct. 3—Minute entry showing that there was filed defendant's instructions which were refused by court as not being correct statements of law.
- Oct. 7—Notice and Motion of defendant for admission to bail pending appeal.
- Oct. 7—Order staying execution of sentence to and including October 17, 1949.
- Oct. 7—Affidavit and Order for filing appeal in forma pauperis.
- Oct. 7—Notice of Appeal.

The reporter's transcript of all evidence, oral and documentary, which was stenographically reported and was taken down on behalf of the plaintiff and also on behalf of the defendant, including all oral motions made by the respective parties and orders and rulings of Court made thereon. All exhibits introduced in evidence by either side and all exhibits differed in evidence by the defendant and rejected and subsequently marked exhibits for identification, excepting the following duplications:

Government's Exhibit 1 includes the in-

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dictment which may be omitted from the exhibit.

Defendant's Exhibit BP contains duplications of Government's Exhibits 8, 9, 10 and 11; the pages of defendant's Exhibit BP which duplicate such exhibits may be omitted.

The defendant's Exhibit UU contains duplication of defendant's Exhibit B; defendant's Exhibit B may be omitted.

All instructions given to the jury by the Court and all instructions the defendant requested the Court to give to the jury which the Court refused to give to the jury, and also the arguments of counsel to the jury.

All depositions offered or admitted in evidence.

- Oct. —Order Releasing Reporter's Transcript.
Oct. —This Designation of Contents of Record on Appeal, and stipulation and order that original exhibits be transmitted to Appellate Court.

/s/ WAYNE M. COLLINS,
/s/ GEORGE OLSHAUSEN,
/s/ THEODORE TAMBA,
Attorneys for Defendant.

Receipt of copy attached.

[Endorsed]: Filed October 11, 1949.

[Title of District Court and Cause.]

ORDER STAYING EXECUTION

Good cause appearing therefor, it is hereby ordered that the sentence and judgment imposed in the above-entitled case on October 6, 1949, be and the same is hereby further stayed to and including the 3rd day of November, 1949.

Dated: October 17, 1949.

/s/ MICHAEL J. ROCHE,
U. S. District Judge.

[Endorsed]: Filed October 17, 1949.

[Title of District Court and Cause.]

ORDER RELEASING REPORTER'S TRANSCRIPT

It is ordered that the Clerk of this Court release to the defendant the reporter's transcript of the evidence and proceedings had at the trial herein for use by the defendant in connection with her appeal to the United States Court of Appeals for the Ninth Circuit from the judgment heretofore entered against her in the above-entitled cause.

Dated: October 17th, 1949.

/s/ MICHAEL J. ROCHE,
U. S. District Judge.

O.K.

/s/ TOM DEWOLFE,
Sp. Asst. to the Atty. Gen.

[Endorsed]: Filed October 17, 1949.

[Title of District Court and Cause.]

STIPULATION AND ORDER THAT ORIGINAL PAPERS AND EXHIBITS BE TRANSMITTED TO THE U. S. COURT OF APPEALS FOR THE NINTH CIRCUIT FOR USE ON APPEAL

It is stipulated between the parties hereto that the original exhibits and papers, including those introduced into evidence and also those marked for identification in the trial herein, shall constitute a part of the record on appeal herein, and that the same shall be transmitted to the U. S. Court of Appeals for the Ninth Circuit for consideration on appeal herein as part of the record on appeal, in lieu of copies thereof.

Dated: October 11, 1949.

/s/ WAYNE M. COLLINS,
/s/ GEORGE OLSHAUSEN,
/s/ THEODORE TAMBA,
Attorneys for Defendant.

/s/ FRANK J. HENNESSY,
/s/ TOM DEWOLF,
Attorneys for Plaintiff.

So Ordered: Oct. 17th, 1949.

/s/ MICHAEL J. ROCHE,
U. S. District Judge.

[Endorsed]: Filed October 17, 1949.

[Title of District Court and Cause.]

DESIGNATION OF ADDITIONAL CONTENTS
OF RECORD ON APPEAL

The defendant (appellant) hereby designates that the following documents also be included in the record on appeal herein, to-wit:

- 1) Notice of Motion and Motion for Admission of Defendant to Bail Pending Appeal.
- 2) Minute Order Denying Bail.
- 3) Order Staying Execution of Charge Dated Oct. 7, 1949 and like Order Dated October 17, 1949.

/s/ WAYNE M. COLLINS,

/s/ GEORGE OLSHAUSEN,

/s/ THEODORE TAMBA,

Attorneys for Defendant.

Receipt of copy attached.

[Endorsed]: Filed October 19, 1949.

[Title of District Court and Cause.]

CERTIFICATE OF CLERK TO
RECORD ON APPEAL

I, C. W. Calbreath, Clerk of the District Court for the United States for the Northern District of California, do hereby certify that the foregoing and accompanying documents and exhibits, listed below, are the originals filed in this Court, or true and correct copies of orders entered on the minutes of this Court, in the above-entitled case, and that they constitute the Record on Appeal herein, as designated by the Appellant, to wit:

Indictment.

Minute Order of October 11, 1948—Arraignment, etc.

Notion of Motion and Motion to be Admitted to Bail.

Minute Order of October 14, 1948—Defendant's Motion for Bail Denied, etc.

Demand for Bill of Particulars.

Demand for Discovery and Inspection.

Demand for Additional Bill of Particulars.

Notice of Motion to Strike and Motion to Strike.

Notice of Motion to Dismiss Indictment and Motion to Dismiss Indictment.—Includes Deft's Ex. No. A (Mo. to Dismiss.)

Notice and Motion for Discovery and Inspection.

Notice and Motion to Dismiss Indictment on Defenses and Objections Capable of Determination Without Trial of General Issue.

Affidavit in Support of Motions to Dismiss.

Notice and Motion for Bill of Particulars.

Minute Order of January 3, 1949—Motions for Bill of Particulars, to Dismiss Indictment and to Strike Indictment Denied—Plea of Not Guilty.

Notice and Motion for Order Authorizing and Directing Issuance of Subpoenas, etc.

Minute Order of March 14, 1949, that Motion to Take Certain Depositions be Granted, etc.

Order Denying Seven Motions etc.,

Stipulations to Taking Oral Designations Abroad.

Notice and Motion for Lists of Witnesses and Veniremen.

Notice and Motion for Order Authorizing and Directing Issuance and Service of Subpoenas, etc.

Notice and Motion for Postponement of Time of Trial.

Minute Order of April 25, 1949—Ordered Issuance of Subpoenas, Continuing Motion for List of Witnesses, etc.

Notice and Motion for Order Authorizing and Directing Issuance and Service of Subpoenas, etc.

Order Granting Defendant's Motions for Order Authorizing and Directing Issuance and Service of Subpoenas, etc.

Order Denying Motion for Lists of Witnesses and Veniremen.

Notice and Motion for Order Authorizing and Directing Issuance and Service of Subpoenas, etc.

Order Granting Defendant's Motion for Order Authorizing and Directing Issuance and Service of Subpoenas to Albert Rickert and Edwin Kalbfleish, Jr., etc.

Motion for Lists of Witnesses and Veniremen.

Motion for Supplemental Order Authorizing Additional Subsistence Expenses, etc.

Motion for Production of Documentary Evidence.

Notice of Motion for Production of Documentary Evidence.

Order Granting Motion for Supplemental Order Authorizing Additional Subsistence, etc.

Minute Order of June 20, 1949—Order Granting Motions to Quash Subpoena Duces Tecum, for Additional Expenses and for List of Witnesses and Veniremen.

Order Requiring Plaintiff to Supply Defendant with Lists of Venireman and Witnesses.

Subpoena to Tom DeWolfe.

Minute Order of June 22, 1949—Quashing Subpoena Duces Tecum and Denying Defendant's Motion to Produce.

Appearance of Attorneys.

Minute Order of August 12, 1949—Continuing Oral Motion for Judgment of Acquittal.

Minute Order of August 13, 1949—Denying Defendant's Motion for Judgment of Acquittal.

Motion for Order for Production, Examination and Inspection of Records and Scripts.

Minute Order of September 19, 1949—Denying Motion to Strike Certain Testimony, To Strike U. S. Exhibits Nos. 2 and 15, To Dismiss Indictment and for Acquittal.

Minute Order of September 26, 1949—Court's

Instructions to the Jury, Alternate Juror Excused, etc.

Minute Order of September 27, 1949—Portions of Transcript and Exhibit Requested and Delivered to Jury, etc.

Minute Order of September 29, 1949—Jury Requested and Received Certain Volumes of Testimony, Further Instructions of the Court, Verdict and Special Findings, etc.

Special Findings by the Jury.

Verdict.

Motion for Arrest of Judgment.

Motion for Acquittal or New Trial.

Motion for New Trial.

Points and Authorities in Support of Motion for New Trial.

Supplemental Ground in Support of Motion Heretofore Filed for Acquittal or for New Trial.

Supplemental Authorities on Motion for New Trial.

Memorandum on Behalf of United States in Opposition to Defendant's Motions for a New Trial, Judgment of Acquittal, and in Arrest of Judgment.

Defendant's Instructions Covered by the Court in Other Instructions.

Defendant's Instructions refused by the Court as Not Correct Statements of the Law.

Minute Order of October 6, 1949—Denying Motion for New Trial, Denying Motion for Acquittal or New Trial, Denying Motion in Arrest of Judgment—Sentence.

Arrest of Judgment—Sentence.

Judgment and Commitment.

Notice of Motion for Admission of the Defendant
To Bail Pending Appeal.

Order Staying Execution.

Affidavit of Defendant re Dispensing With Pay-
ment of Fees and Costs of Printing Record on Ap-
peal.

Order Dispensing With Payment of Fees and
Costs of Printing Record on Appeal.

Notice of Appeal.

Minute Order of October 19, 1949—Denying Mo-
tion for Bail Pending Appeal.

Designation of Contents of Record on Appeal.

Order Staying Execution.

Order Releasing Reporter's Transcript.

Stipulation and Order That Original Papers and
Exhibits Be Transmitted to the U. S. Court of
Appeals, etc.

Designation of Additional Contents of Record on
Appeal.

Reporter's Transcript for November 22, 1948—
Motion to Dismiss, For a Bill of Particulars, To
Strike, and for Discovery and Inspection.

Reporter's Transcript for December 20, 1948—
Hearing on Special Motions of Defendant.

Reporter's Transcript for January 3, 1949.

54 Volumes of Reporter's Transcripts.

Plaintiff's Exhibits Nos. 1 (Also Defendant's
Exhibit A) 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14,
15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28,
29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42,

43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 79, 71 (In the Deposition of J. A. Abranches Pinto), 72, 73, 74, and 75.

Defendant's Exhibits A, (Also Plaintiff's Exhibit No. 7), B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y, Y-1, Z, Z-1, AA, BB, CC, DD, EE, (in Pinto Deposition), FF (in Pinto Deposition), GG (in Pinto Deposition), HH, (in Pinto Deposition), II, (in Pinto Deposition), JJ (in Pinto Deposition), KK (in Pinto Deposition), LL (in Pinto Deposition), MM, NN, OO, PP, QQ, RR, SS, TT, UU, VV, WW, XX, YY, ZZ, BA, BC, BD, BE, BF, BG, BH, BI, BJ, BK, BL, BM, BN, BO, BP, BQ, BR, BS, (19 Depositions) (Brown Suit—3 pieces—accompanying Deposition of Toshikatsu Kodaira), BT (23 Subpoenas), BU, and BV.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said District Court this 24th day of October, A.D. 1949.

C. W. CALBREATH,
Clerk,

[Seal] /s/ M. E. VAN BUREN,
Deputy Clerk.

[Endorsed]: No. 12383. United States Court of Appeals for the Ninth Circuit. Iva Ikuko Toguri D'Aquino, Appellant, vs. United States of America, Appellee. Transcript of Record. Appeal from the United States District Court for the Northern District of California, Southern Division.

Filed October 24, 1949.

/s/ PAUL P. O'BRIEN,

Clerk of the United States Court of Appeals for
the Ninth Circuit.

